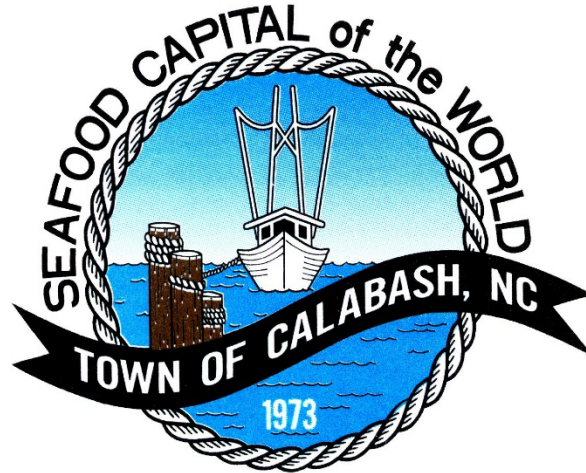




TOWN OF CALABASH

**UNIFIED DEVELOPMENT ORDINANCE
(UDO)**

MAY 24, 2010

(as amended through 3/11/2025)

TABLE OF CONTENTS

TABLE OF CONTENTS	i
ARTICLE 1. GENERAL PROVISIONS	1-1
Section 1-1. Title	1-1
Section 1-2. Authority	1-1
Section 1-3. Purpose	1-1
Section 1-4. Jurisdiction	1-1
Section 1-5. Identification of Official Zoning Map.....	1-2
Section 1-6. Effective Date.....	1-2
Section 1-7. Relationship to Existing Zoning and Subdivision Ordinances.....	1-2
Section 1-8. Relationship to Coastal Area Management Act (CAMA) Land Use Plan.....	1-2
Section 1-9. Prerequisite to Final Subdivision Plat Recordation.....	1-3
Section 1-10. Fees.....	1-3
Section 1-11. Interpretation and Conflict	1-3
Section 1-12. Severability.....	1-3
Section 1-13. Computation of Time	1-4
Section 1-14. Required Yards Not to be Used by Buildings	1-4
Section 1-15. Relationship of Building to Lot.....	1-4
Section 1-16. Street Access	1-4
Section 1-17. Reduction of Lot and Yard Areas Prohibited.....	1-5
Section 1-18. Issued Building and/or Zoning Permits.....	1-5
Section 1-19. Building Permits Based on Zoning Permits	1-5
Section 1-20. Certificates of Occupancy	1-6
Section 1-21. Other Permits.....	1-7
ARTICLE 2. BASIC DEFINITIONS	2-1
Section 2-1. Word Interpretation	2-1
Section 2-2. Definitions of Basic Terms	2-2
ARTICLE 3. ADMINISTRATIVE MECHANISMS	3-1
PART I. ADMINISTRATOR.....	3-1
Section 3-1. Administrator	3-1
PART II. PLANNING BOARD	3-2
Section 3-2. Authority	3-2

Section 3-3. Purpose	3-2
Section 3-4. Membership	3-2
Section 3-5. Jurisdiction and Voting	3-3
Section 3-6. Operational Procedures	3-3
Section 3-7. Rules of Conduct	3-4
Section 3-8. General Powers	3-4
Section 3-9. Miscellaneous Powers and Duties	3-5
Section 3-10. Staff and Finances	3-6
Section 3-11. Comprehensive Plan	3-6
Section 3-12. Zoning Amendments	3-7
Section 3-13. Subdivision Regulations	3-7
Section 3-14. Public Facilities	3-8
Section 3-15. Annual Report	3-8
PART III. BOARD OF ADJUSTMENT	3-8
Section 3-16. Establishment	3-8
Section 3-17. Procedure	3-9
Section 3-18. Power and Duties	3-9
Section 3-19. Appeals from the Board	3-10
PART IV. BOARD OF COMMISSIONERS	3-10
Section 3-20. Powers and Duties	3-11
ARTICLE 4. CHANGES AND AMENDMENTS	4-1
Section 4-1. Changes and Amendments	4-1
Section 4-2. Action by the Applicant	4-1
Section 4-3. Application for Zoning Amendments	4-3
Section 4-4. Action by the Planning Board	4-3
Section 4-5. Action by the Board of Commissioners	4-5
Section 4-6. RESERVED	4-6
Section 4-7. Withdrawal of the Application	4-6
Section 4-8. Conditional Zoning Amendments	4-6
Section 4-9. Master Development Plans	4-10
ARTICLE 5. APPEALS, VARIANCES, INTERPRETATIONS	5-1
Section 5-1. Appeals	5-1
Section 5-2. Variances	5-2

Section 5-3. Interpretations.....	5-3
Section 5-4. Requests to be Heard Expeditiously.....	5-4
Section 5-5. Burden of Proof in Appeals and Variances	5-4
Section 5-6. Board Action on Appeals and Variances	5-4
ARTICLE 6. BOARD OF ADJUSTMENT HEARING PROCEDURES FOR APPEALS AND APPLICATIONS	6-1
Section 6-1. Hearing Required on Appeals and Applications	6-1
Section 6-2. Notice of Hearing	6-1
Section 6-3. Evidence and Administrative Materials	6-2
Section 6-4. Modification of Application at Hearing	6-2
Section 6-5. Record	6-3
Section 6-6. Written Decision	6-3
ARTICLE 7. ENFORCEMENT AND REVIEW	7-1
Section 7-1. Complaints Regarding Violations	7-1
Section 7-2. Persons Liable	7-1
Section 7-3. Procedures Upon Discovery of Violations.....	7-1
Section 7-4. Remedies and Penalties for Violations.....	7-1
Section 7-5. Permit Revocation	7-2
ARTICLE 8. NONCONFORMING USES	8-1
Section 8-1. Existing Nonconforming Use May Be Continued	8-1
Section 8-2. Existing Lots of Record.....	8-1
Section 8-3. Change of Use	8-1
Section 8-4. Replacement of Nonconforming Use, Building, or Structure	8-1
Section 8-5. Extension of Use Within Existing Building and Expansion of Space	8-2
Section 8-6. Extension or Enlargement of a Nonconforming Use or Building	8-2
Section 8-7. Discontinuance or abandonment of Nonconforming Use	8-3
Section 8-8. Intermittent Use	8-3
ARTICLE 9. ZONING DISTRICTS AND ZONING MAP	9-1
PART I. ZONING DISTRICTS	9-1
Section 9-1. Establishment of Zoning Districts, and the Purpose Thereof.....	9-1
PART II. OFFICIAL ZONING MAP	9-2
Section 9-2. Zoning Map is a Part of this Ordinance	9-2
Section 9-3. Replacement of the Official Zoning Map	9-3

Section 9-4. Maintenance of the Official Zoning Map.....	9-3
PART III. APPLICATION OF GENERAL REGULATIONS	9-3
Section 9-5. Only One Main Building, One Main Use on Lot,... Orientation ... Building..	9-3
Section 9-6. Minimum Yards	9-3
Section 9-7. Lot Subdivision	9-3
Section 9-8. Improvements Bond	9-4
Section 9-9. Obstruction of Public Rights-of-Way	9-4
Section 9-10. Existing Encroachments on Rights-of-Way	9-4
Section 9-11. Conditions for Used Manufactured Homes/Dwellings moved to Jurisdiction	9-4
Section 9-12. Variance consideration by the Board of Adjustment to allow carports in the front setback of the MFHII Zoning District subject to, but not limited to, the following requirements:	9-6
ARTICLE 10. TABLE OF PERMITTED/SPECIAL USES	10-1
Section 10-1. Table of Permitted and Special Uses.....	10-1
Section 10-2. Notes to the Table of Permitted Uses.....	10-7
ARTICLE 11. TABLE OF AREA, YARD, AND HEIGHT REQUIREMENTS	11-1
Section 11-1. Notes to the Table of Area, Yard, and Height Requirements	11-2
ARTICLE 12. ZONING AND SPECIAL USE PERMIT APPROVAL.....	12-1
Section 12-1. Permits Required	12-1
Section 12-2. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled.....	12-1
Section 12-3. Who May Submit Permit Applications	12-2
Section 12-4. Applications To Be Complete	12-2
Section 12-5. Staff Consultation After Application Submitted.....	12-2
Section 12-6. Zoning Permits	12-3
Section 12-7. Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit.....	12-3
Section 12-8. Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special-Use Permits.....	12-4
Section 12-9. Completing Developments in Phases	12-4
Section 12-10. Expiration of Permits	12-5
Section 12-11. Effect of Permit on Successors and Assigns	12-5
Section 12-12. Amendments to and Modifications of Permits.....	12-5
Section 12-13. Reconsideration of Commissioners/Board Action.....	12-6
Section 12-14. Applications to be Processed Expeditiously	12-6

Section 12-15. Maintenance of Common Areas, Improvements, and Facilities	12-7
Section 12-16. Special Use Permits Objectives and Purpose	12-7
Section 12-17. Procedure for Special Use Permit Granted by the Board of Commissioners on Recommendation of the Planning Board	12-7
Section 12-18. Table of Regulations for Special Uses	12-9
ARTICLE 13. RESIDENTIAL CLUSTER DEVELOPMENT	13-1
Section 13-1. Purpose and Intent; Definition	13-1
Section 13-2. Area; Permitted Districts, Exemption; Street Access; Open Space(s); Density; Dimensional Standards	13-1
Section 13-3. Maximum Density Requirements.....	13-3
Section 13-4. Minimum Dimensional Standards.....	13-3
Section 13-5. Zero Side Yard Setbacks	13-5
Section 13-6. Compliance with Subdivision Standards.....	13-5
ARTICLE 14. PLANNED BUILDING GROUP REGULATIONS	14-1
Section 14-1. Planned Building Group Regulations for Apartments, Townhouses, and Condominiums.....	14-1
Section 14-2. Manufactured Home Park Regulations	14-6
Section 14-3. Recreational Vehicle Parks	14-14
Section 14-4. Business Planned Building Group Regulations	14-18
ARTICLE 15. PLANNED UNIT DEVELOPMENT (PUD)	15-1
Section 15-1. Purpose of a PUD.....	15-1
Section 15-2. Application	15-1
Section 15-3. Procedure.....	15-1
Section 15-4. Elements of a PUD	15-2
Section 15-5. Design Standards.....	15-2
Section 15-6. Pre-Application Conference.....	15-5
Section 15-7. Concept Plan	15-5
Section 15-8. Master Plan Special Use Permit Approval.....	15-6
Section 15-9. Site Specific Plan Approval	15-7
Section 15-10. Amendments to Concept Plan, Master Plan & Site Specific Plan(s)	15-9
ARTICLE 16. LANDSCAPING AND BUFFER STRIPS	16-1
Section 16-1. Objective	16-1
Section 16-2. Landscaping	16-1

Section 16-3. Buffer Strips	16-8
Section 16-4. Tree Protection SECTION REPEALED 9-11-2012	16-9
Section 16-5. Tree Protection During Construction	16-12
Section 16-6. Wetlands and Riverfront Protection	16-12
Section 16-7. Maintenance	16-12
Section 16-8. Authority of Administrator to Treat or Remove Trees on Private Property	16-13
Section 16-9. Exemptions	16-13
ARTICLE 17. OFF-STREET PARKING AND LOADING	17-1
Section 17-1. Off-Street Parking and Loading Standards	17-1
Section 17-2. General Provisions	17-1
Section 17-3. Requirements for Parking Lots	17-3
Section 17-4. Manufactured Home and Trailer Parking and Storing	17-4
Section 17-5. Access	17-4
Section 17-6. Parking Space Dimensions	17-5
Section 17-7. Signage	17-6
Section 17-8. Minimum Loading Requirements	17-7
Section 17-9. Specific Parking Standards	17-7
ARTICLE 18. SIGN REGULATIONS	18-1
Section 18-1. Purpose	18-1
Section 18-2. Scope	18-1
Section 18-3. North Carolina State Building Code Volume 1A	18-1
Section 18-4. General Provisions	18-2
Section 18-5. Prohibited Signs	18-4
Section 18-6. Signs for Which a Permit is Not Required	18-6
Section 18-7. Signs that Require a Permit – No Fee	18-7
Section 18-8. Banners	18-9
Section 18-9. Required Signs	18-9
Section 18-10. Application for Permit	18-9
Section 18-11. Sign Area Computation	18-10
Section 18-12. Zoning District Sign Regulations	18-11
Section 18-13. Remedies	18-13
Section 18-14. Application	18-13
ARTICLE 19. FLOOD DAMAGE PREVENTION ORDINANCE	19-1

PART I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.....	19-1
Section 19-1. Statutory Authorization.....	19-1
Section 19-2. Findings of Fact.....	19-1
Section 19-3. Statement of Purpose.....	19-1
Section 19-4. Objectives.....	19-2
PART II. GENERAL PROVISIONS.....	19-2
Section 19-5. Lands to Which This Ordinance Applies.....	19-2
Section 19-6. Basis for Establishing the Special Flood Hazard Areas.....	19-3
Section 19-7. Establishment of Floodplain Development Permit.....	19-3
Section 19-8. Compliance.....	19-3
Section 19-9. Abrogation and Greater Restrictions.....	19-3
Section 19-10. Interpretation.....	19-3
Section 19-11. Warning and Disclaimer of Liability.....	19-3
Section 19-12. Penalties for Violation.....	19-4
PART III. ADMINISTRATION.....	19-4
Section 19-13. Designation of Floodplain Administrator.....	19-4
Section 19-14. Floodplain Development Application, Permit, and Certification Requirements.....	19-4
Section 19-15. Duties and Responsibilities of the Floodplain Administrator.....	19-10
Section 19-16. Corrective Procedures.....	19-12
Section 19-17. Variance Procedures.....	19-14
PART IV. PROVISIONS FOR FLOOD HAZARD REDUCTION.....	19-16
Section 19-18. General Standards.....	19-16
Section 19-19. Specific Standards.....	19-18
Section 19-20. Reserved.....	19-25
Section 19-21. Standards for Floodplains Without Established Base Flood Elevations..	19-25
Section 19-22. Standards for Riverine Floodplains with Base Flood Elevations but Without Established Floodways or Non-Encroachment Areas.....	19-26
Section 19-23. Floodways and Non-Encroachment Areas.....	19-26
Section 19-24. Coastal High Hazard Area (Zone VE).....	19-27
Section 19-25. Standards for Coastal A Zones (Zone CAZ) LiMWA (Maximum 650 CRS Points).....	19-29
Section 19-26. Standards for Areas of Shallow Flooding (Zone AO).....	19-31
Section 19-27. Standards for Areas of Shallow Flooding (Zone AH).....	19-31

PART V. LEGAL STATUS PROVISIONS.	19-31
Section 19-28. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.....	19-32
Section 19-29. Effect Upon Outstanding Floodplain Development Permits.....	19-32
Section 19-30. Severability.....	19-32
Section 19-31. Effective Date.....	19-32
Section 19-32. Adoption Certification.....	19-32
ARTICLE 20. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS	20-1
Section 20-1. Purpose	20-1
Section 20-2. Application for Licenses	20-1
Section 20-3. Application Procedures	20-2
Section 20-4. Prohibited Acts and Conduct.....	20-8
Section 20-5. License, Posting, and Display	20-9
Section 20-6. Inspections.....	20-9
Section 20-7. Suspension or Revocation of Licenses.....	20-9
Section 20-8. License Renewal	20-11
Section 20-9. Transfer of License.....	20-11
Section 20-10. Locational Restrictions.....	20-11
Section 20-11. Additional Regulations for Adult Motels.....	20-12
Section 20-12. Additional Regulations for Escort Agencies.....	20-13
Section 20-13. Additional Regulations for Nude Model Studios.....	20-13
Section 20-14. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, and Live Performances	20-13
Section 20-15. Exterior Portions of Sexually Oriented Businesses.....	20-15
Section 20-16. Signage	20-16
Section 20-17. Parking	20-16
Section 20-18. Massages or Baths Administered by a Person of the Opposite Sex.....	20-17
Section 20-19. Hours of Operation.....	20-17
Section 20-20. Exemptions.....	20-17
Section 20-21. Notices.....	20-17
ARTICLE 21. TELECOMMUNICATION FACILITIES	21-1
Section 21-1. Purpose	21-1
Section 21-2. Facilities Permitted.....	21-1
Section 21-3. Telecommunications Facility Plans	21-2

ARTICLE 22. VESTED RIGHT PROVISIONS..... 22-1
 Section 22-1. Purpose 22-1
 Section 22-2. Establishment of a Zoning Vested Right..... 22-1
 Section 22-3. Approval Procedures and Approval Authority..... 22-1
 Section 22-4. Duration..... 22-2
 Section 22-5. Termination 22-3
 Section 22-6. Voluntary Annexation 22-3
 Section 22-7. Limitations 22-4
 Section 22-8. Repealer..... 22-4
 Section 22-9. Permit Choice..... 22-4
ARTICLE 23. TRAFFIC IMPACT STUDY 23-1
 Section 23-1. Purpose 23-1
 Section 23-2. Conduct 23-1
 Section 23-3. Applicability..... 23-1
 Section 23-4. Capacity Analysis of the Existing System 23-2
 Section 23-5. General Requirements and Standards 23-4
 Section 23-6. Submission and Implementation 23-7
ARTICLE 24. SUBDIVISION REGULATIONS 24-1
 PART I. GENERAL PROVISIONS 24-1
 Section 24-1. Purpose 24-1
 Section 24-2. Acceptance of Streets 24-1
 Section 24-3. Thoroughfare Plan..... 24-1
 Section 24-4. School Plans 24-1
 Section 24-5. Unified Development Ordinance and Other Plans..... 24-2
 Section 24-6. Design Standards for Stormwater Drainage..... 24-2
 Section 24-7. Sedimentation Pollution Control..... 24-2
 Section 24-8. Stormwater Runoff Disposal..... 24-2
 Section 24-9. Design Standards for Easements 24-2
 PART II. MAJOR AND MINOR SUBDIVISIONS 24-2
 Section 24-10. Plat Shall be Required on Any Subdivision of Land 24-3
 Section 24-11. Approval Prerequisite to Plat Recordation..... 24-3
 Section 24-12. Procedures for Review of Major and Minor Subdivisions..... 24-3
 Section 24-13. Procedure for Review of Minor Subdivisions & Family Membership Transfer
 24-4

Section 24-14. Major Subdivision Sketch Design Plan Submission and Review	24-7
Section 24-15. Major Subdivision Preliminary Plat Submission and Review	24-8
Section 24-16. Major Subdivision Final Plat Submission and Review	24-9
Section 24-17. Information ... Contained in or Depicted on Preliminary... Final Plats...	24-16
Section 24-18. Recombination of Land	24-22
Section 24-19. Resubdivision Procedures	24-23
Section 24-20. Flag Lots.....	24-23
PART III. DESIGN STANDARDS FOR RECREATION AREAS	24-23
Section 24-21. Recreation Areas	24-23
Section 24-22. Amount of Land	24-23
Section 24-23. Suitability Requirements	24-24
Section 24-24. Homeowners Association or Nonprofit Organizations	24-24
Section 24-25. Limitations	24-25
Section 24-26. Adjustments.....	24-25
PART IV. STREETS.....	24-25
Section 24-27. Coordination and Continuation of Streets	24-25
Section 24-28. Street Connectivity Requirements.....	24-25
Section 24-29. Private Streets.....	24-27
Section 24-30. Marginal Access Streets	24-28
Section 24-31. Subdivision Street Disclosure Statement	24-28
Section 24-32. Half-Streets.....	24-28
Section 24-33. Street Names	24-28
Section 24-34. Collector and Minor Streets	24-28
Section 24-35. Design Standards	24-28
PART V. UTILITIES	24-29
Section 24-48. Water and Sewerage Systems	24-29
Section 24-49. Electric Power	24-29
Section 24-50. Telephone Service	24-30
Section 24-51. Underground Utilities.....	24-30
Section 24-52. Utilities to be Consistent with Internal and External Development.....	24-30
PART VI. LOT STANDARDS	24-31
Section 24-53. Lot Standards.....	24-31
Section 24-54. Land Disturbing Activities	24-31
Section 24-55. Exceptions	24-31

Section 24-56. Construction Procedures 24-32

Section 24-57. Exemptions..... 24-32

ARTICLE 1. GENERAL PROVISIONS

Section 1-1. Title

This Ordinance shall be known and may be cited as the “Town of Calabash, North Carolina, Unified Development Ordinance,” and may be referred to as the “Calabash UDO.” The map herein referred to, which is identified by the title “Official Zoning Map, Calabash, North Carolina,” shall be known as the “Zoning Map.”

Section 1-2. Authority

- (A) This Ordinance is adopted pursuant to the authority contained in North Carolina General Statute (NCGS) Chapter 160D which states that a town may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances.
- (B) Whenever any provision of this Ordinance refers to or cites a section of the NC General Statutes and that section is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 1-3. Purpose

This Unified Development Ordinance is designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to control development of flood prone areas and regulate stormwater runoff/discharge; to regulate signs; and to establish proceedings for the subdivision of land. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction, and to preserve the fishing, dining, and shopping village character.

Section 1-4. Jurisdiction

- (A) The provisions of this Ordinance shall apply within the corporate limits of the Town and the extraterritorial limits now in effect and as shown on the “Official Zoning Map” and as may be hereinafter adopted. Such planning jurisdiction may be modified from time to time in accordance with NC General Statutes 106D-202.
- (B) In addition to other locations required by law, a copy of the official zoning map showing the boundaries of the Town’s planning jurisdiction shall be available for public inspection at the Town Hall.

- (C) In accordance with NC General Statutes 160D-913, the Town of Calabash UDO applies to state-owned lands only when a building is involved.

Section 1-5. Identification of Official Zoning Map

- (A) The Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk and bearing the seal of the Town under the following words: “This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, Calabash, North Carolina,” together with the date of the adoption of this Ordinance. Zoning maps that are so adopted shall be maintained for public inspection in the office of the Town Clerk. These maps may be in paper or digital format.
- (B) If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be entered on the Zoning Map promptly after the amendment has been approved by the Board of Commissioners, with an entry on the Zoning Map denoting the date of amendment and signed by the Town Clerk. No amendment to this Ordinance which involves matter portrayed on the Zoning Map shall become effective until after such change and entry has been made on said map.
- (C) When the Zoning Map is officially replaced, unless the prior map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption of amendment. Copies of the Zoning Map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the Town Clerk in accordance with NC General Statute 160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map.

Section 1-6. Effective Date

The provisions in this Ordinance were originally adopted and became effective on July 13, 2010.

Section 1-7. Relationship to Existing Zoning and Subdivision Ordinances

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town’s zoning, subdivision, and flood damage ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided.

Section 1-8. Relationship to Coastal Area Management Act (CAMA) Land Use Plan

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board of Commissioners for the Town and its extraterritorial planning area, as reflected in the CAMA land use plan and other planning documents. The Board

of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies.

Section 1-9. Prerequisite to Final Subdivision Plat Recordation

After the effective date of this ordinance, subdivisions meeting the requirements of minor subdivision shall be approved by the Planning and Zoning Board and Administrator. All Major subdivisions must have final approval from the Board of Commissioners upon recommendation from the Planning & Zoning Board.

Any final plat, either major or minor, shall be recorded with the Register of Deeds within 90 days from the date of approval by the Administrator or Board of Commissioners. If the final plat is not recorded within this period, it shall expire. The plat may be resubmitted for review and it shall be reviewed against the Ordinance in effect at that time.

Section 1-10. Fees

- (A) Reasonable fees sufficient to cover the actual costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, stormwater permits, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Zoning Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as established by resolution of the Board of Commissioners filed in the office of the Town Clerk.
- (B) Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application or notice of appeal.

Section 1-11. Interpretation and Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, covenants, or agreements, the provisions of this Ordinance shall govern.

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

Section 1-12. Severability

It is hereby declared to be the intention of the Board of Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such

section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentence, clauses, or phrases of this Ordinance since the same would have been enacted without the incorporation into this Ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

Section 1-13. Computation of Time

- (A) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- (B) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

Section 1-14. Required Yards Not to be Used by Buildings

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

Section 1-15. Relationship of Building to Lot

Every building hereinafter 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 a designed complex of professional, residential, or commercial buildings in an appropriate zoning district (i.e., school campus, shopping center, and industrial park). Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.

Section 1-16. Street Access

No building shall be erected on a lot which does not abut a street approved by the procedures contained in this UDO or have access to a public right-of-way, or private driveway, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

Section 1-17. Reduction of Lot and Yard Areas Prohibited

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

Section 1-18. Issued Building and/or Zoning Permits

The provisions contained herein shall not affect buildings, structures, and uses for which building and/or zoning permits were issued prior to the passage of this Ordinance, provided that the permit is not revoked and the activities for which the outstanding permits were issued are begun within 180 days of the date this Ordinance is adopted. Outstanding zoning permits not started within 180 days shall be null and void.

Section 1-19. Building Permits Based on Zoning Permits

(A) Building Permits/Zoning Permit Required.

- (1) A valid Zoning Permit and/or Special Use Permit shall be presented with any application for a Building Permit. No Building Permit shall be issued for any activity in a zoned area until such Zoning Permit is presented. All zoning and special use permits shall be issued in accordance with Article 12. It shall be unlawful to commence the excavation for or the construction of the building or other structure including accessory structures or to commence the moving or alteration of any structure or the use of any land or building including accessory structures, until the Administrator has issued a Zoning Permit for such work or use including a statement that the plans, specifications and intended use of such land, or structure, in all respects conforms with the provisions of this Ordinance. Application for a Zoning Permit shall be made in writing to the Administrator on forms provided for that purpose. Zoning Permits shall be void after 12 months from date of issue unless substantial progress on the project has been made by that time.
- (2) A building permit is valid for one year from the date of issue. If construction is not started in 180 days, the applicant must apply for a permit renewal. The fee for renewal of the permit shall be the same as for the original permit.

(B) Approval of Plans. It shall be unlawful for the Administrator to approve any plans or issue a building permit for any purpose regulated by this Ordinance until he/she has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Administrator shall require that every application for a building permit be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Administrator to ascertain whether the proposed activity is in conformance with the Ordinance.

- (1) The actual shape, location, and dimensions of the lot.

- (2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
 - (3) The existing and intended use of all such buildings or other structures, parking facilities, landscaping design and stormwater control measures.
 - (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.
- (C) Issuance of Building Permits. If the proposed activity as set forth in the application is in conformity with the provisions of this Ordinance, the Administrator shall issue a building permit. If any application for a building permit is not approved, the Administrator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provision of this Ordinance or any other ordinance or regulation.
- (D) Determination of Exact Location of Zoning District Boundary Lines. The Administrator shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on zoning maps, subject to appeal of the Administrator's determination to the Board of Adjustment.

Section 1-20. Certificates of Occupancy

- (A) No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied or moved until the Building Inspector or Administrator has issued a Certificate of Occupancy. Therefore, the change of occupancy provision shall not apply to rooms intended for transient rental.
- (B) A Temporary Certificate of Occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses.
- (C) Application for a Certificate of Occupancy may be made by the owner or his agent at the same time as submitting an application for a building permit, if needed. The Certificate of Occupancy shall be issued by the Building Inspector after all final inspections have been made.
- (D) In the case changing uses of existing buildings or other uses not requiring a building permit, after supplying the information and data necessary to determine compliance with this Ordinance and appropriate regulatory codes of the Town for the occupancy intended, the Building Inspector shall issue a Certificate of Occupancy when, after examination and inspection, it is found that the building or use in all respects conforms to the provisions of this Ordinance and appropriate regulatory codes of the Town for the occupancy intended.

Section 1-21. Other Permits

The Administrator shall be authorized to issue other permits as required by this Ordinance or the Board of Commissioners.

ARTICLE 2. BASIC DEFINITIONS

Section 2-1. Word Interpretation

For the purposes of this Ordinance, certain words shall be interpreted as follows. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- (B) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (C) Words used in the present tense include future tense.
- (D) The word "person" includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (E) The words "may" and "should" are permissive.
- (F) The words "shall" and "will" are always mandatory and not merely directive.
- (G) The word "used for" shall include the meaning "designed for."
- (H) The words "used" or "occupied" shall mean "intended, designed, and arranged to be used or occupied."
- (I) The word "lot" shall include the words "plot," "parcel," "site," and "premises."
- (J) The word "structure" shall include the word "building."
- (K) The word "street" includes the word "alley," "road," "cul-de-sac," "highway," or "thoroughfare," whether designated as public or private.
- (L) The word "includes" shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (M) The word "Commissioner" shall include "Board of Commissioners" of the Town of Calabash, North Carolina.
- (N) The word "administrator" shall mean the "Town of Calabash Unified Development Ordinance Administrator."
- (O) The words "Zoning Board," "Zoning Commission," or "Planning Commission" shall mean the "Town of Calabash Planning Board."

- (P) The word "Town" shall mean the "Town of Calabash," a municipal corporation of the State of North Carolina.
- (Q) The words "map," "zoning map," and "Calabash Zoning Map" shall mean the "Official Zoning Map for the Town of Calabash, North Carolina."
- (R) The words "Board of Adjustment" shall mean the "Town of Calabash Board of Adjustment."

Section 2-2. 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 Ordinance.

(1) Abutting – (48) Club or Lodge

- (1) Abutting. Having property of district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, railroad, or other transportation corridor.
- (2) Access. A way of approaching or entering a property. Access also includes ingress, the right to enter, and egress, the right to leave.
- (3) Accessory Building or Use. A building or use not including signs; which is:
- Conducted or located on the same zoning lot as the principal building or use served, except as may be specifically provided elsewhere in this Ordinance;
 - Clearly incidental to, subordinate in area and purpose to, and serves the principal use; and
 - Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal use.
- (4) Administrator. The official appointed by the Board of Commissioners to enforce the Unified Development Ordinance.
- (5) Administrative Decision. A decision made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this ordinance.
- (6) Adult or Sexually Oriented Businesses. Any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in NC General Statutes 14-202.10.
- (7) Advertising Device or Sign. Any advertising sign, billboard, statuary or poster which

directs attention to a business, commodity, service, or entertainment.

- (8) Agriculture. The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, forestry, and animal and poultry 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 and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
- (9) Apartment (Dwelling Unit). A room or suite of rooms intended for use as a residence by a single household or family (i.e., dwelling unit). Such dwelling unit may be located in an apartment house, duplex, or as an accessory use in a single-family home or a commercial building.
- (10) Apartment House. See Dwelling, Multi-Family.
- (11) Appeal. A request for a review of final decision of any provision of this Ordinance.
- (12) Approval Authority. The Board of Commissioners of the Town of Calabash, the Board of Adjustment or other board or official designated by Ordinance as authorized to grant the specific zoning or land use permit or approval.
- (13) Assisted Living Residence. Any group housing and services program for two or more unrelated adults, that does not constitute a group home as defined in this ordinance, and provides personal care, meal, and/or housekeeping services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of NC General Statutes 131E-102.
- (14) Automobile Off-Street Parking (Commercial Lot). Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses.
- (15) Automobile Repair Shop. A building or other structure where the following uses and activities are permitted: major mechanics, body work, straightening of body parts, along with all uses and activities of an automotive care center.
- (16) Automobile Sales Dealer. A retail or wholesale enterprise in which the primary purpose or function is the sale of motor vehicles.
- (17) Automobile Sales Lot. A parcel and/or building where the primary use is the wholesale or retail sale of automobiles.

- (18) Automobile Service Station (Gas Station). Any building or land used for the dispensing, sale or offering for sale at retail any automobile fuels along with accessories such as lubricants or tires, except that car washing, mechanical or electrical repairs, and tire repairs shall only be performed incidental to the conduct of the service station and are performed indoors and has no fuel pumps within 15 feet of any property line or street right-of-way. Incidental activities shall not include tire retreading, body work, major mechanical work, or upholstery work.
- (19) Automobile Wash or Automatic Car Wash. A building or structure where chain conveyors, blowers, steam cleaners, and other mechanical devices are employed for the purpose of washing motor vehicles.
- (20) Automotive Care Center. Three or more automotive care uses planned and constructed as a single unit, where the following uses and activities associated with each would be permitted: (a) Auto parts store, (b) Muffler shop, (c) Transmission shop, (d) Tune-up shop, (e) Lubrication shop, (f) Auto trim and detail shop, (g) Tire store with service (including alignment), (h) Brake shop.
- (21) Bar. A bar is a retail establishment that allows the on-premises consumption of alcoholic beverages, regardless of whether food is sold as part of the business establishment. ABC permits could include on premises malt beverages, on premises unfortified wine, on premises fortified wine, or on premises mixed beverages.
- (22) Best Management Practices (BMP). As it relates to stormwater plan, a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (23) Block. A tract of land or a lot or group of lots bounded by streets, public parks, golf course, railroad rights-of-way, water courses, lakes, un-subdivided land, or a boundary line or lines of the county or its towns or any combination of the above.
- (24) Block Frontage. The portion of a block which abuts a single street.
- (25) Board of Adjustment. A local body, created by ordinance, whose responsibility is to hear appeals from decisions of the Administrator and to consider requests for variances from the terms of the Unified Development Ordinance.
- (26) Board of Commissioners. The governing body of the Town.
- (27) Boarding House. A building other than a hotel or motel where, for compensation, meals are served and lodging is provided.
- (28) Bona Fide Farm. A property that is located in the Town's extraterritorial jurisdiction that is used for bona fide farm purposes in accordance with NC General Statute 160D-903(a) and is exempt from zoning regulation to the same extent bona fide farming

activities are exempt from county zoning pursuant to NC General Statute 160D-903. Bona fide farms do not include intensive livestock operations.

(29) Breweries, Wineries (including taproom and tasting room)

- a. Breweries (including micro-breweries and cideries)-An establishment, whether as a principal or accessory use, which manufactures or produces beer regardless of alcohol content.
- b. Winery (including vineyard)-An establishment, whether as a principal or accessory use, which manufactures or produces wine or sparkling wine.

(30) Buffer. A fence, wall, hedge, or other planted area or device used to enclose, screen, or separate one use or lot from another.

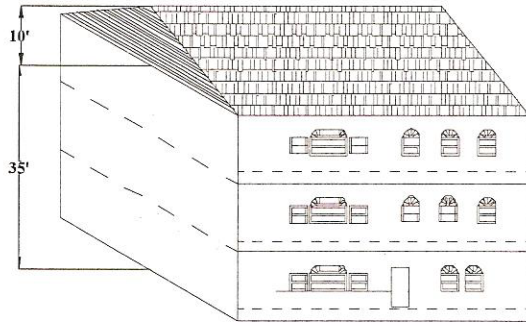
(31) Buffer Strip. Shall consist of plant material of such growth characteristics as will provide an obscuring screen of not less than seven feet in height. Buffer strip would reasonably be expected within three years of planting. A planted, growing barrier affording visual privacy and sight relief between properties of dissimilar uses or character of buildings.

(32) Building. Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, manufactured homes, and attached or unattached carports consisting of a roof and supporting members, and similar structures whether stationary or movable. Includes all structures regardless of similarity to buildings.

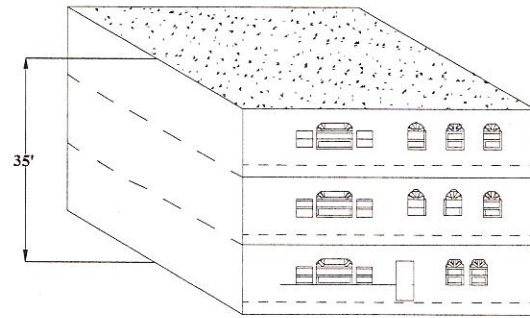
(33) Building Height. Height shall be measured from the average of the finished ground level to the eave of the roof structure. The uninhabitable roof structure may extend ten (10) feet.

The height limitations shall not apply to:

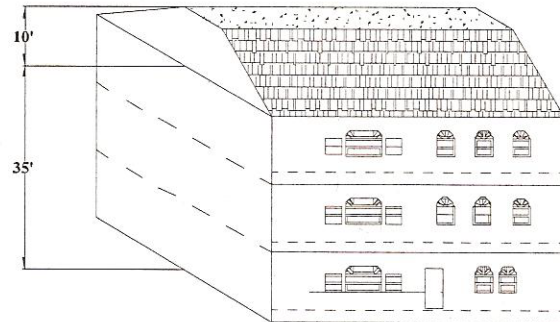
- Bona fide farm buildings other than dwelling units or other residential uses;
- Steeples on places of worship;
- Strictly ornamental features such as belfries, parapets, roof screens, and widow's watches less than four feet, and chimney(s) to a height sufficient to satisfy the NC State Building Code;
- Air conditioning units screened from view;
- Utility poles;
- Mechanical features;
- Lightning rods;
- Antennas (not including WTF facilities); and
- Water tanks



GABLE, HIP OR GAMBREL ROOF
(measure to eave of roof)



FLAT ROOF
(measure to eave of roof)



MANSARD ROOF
(measure to eave of roof)

- (34) Building Inspector. The person designated by the Board of Commissioners to enforce the provisions of the Standard Building Code and the North Carolina State Building Code.
- (35) Building, Principal (Main). A building in which is conducted the principal use of the plot on which it is situated.
- (36) Building Setback Line. A line measured parallel to the ~~front~~ property line in front of which no structure shall be erected.
- (37) Caliper. Caliper is a device used to measure the distance between two symmetrically opposing sides. The term "caliper" is commonly used as a nursery stock stem/trunk diameter measurement which is taken six inches above the ground up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at 12 inches above the ground. Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic "slot" or "pincer" type caliper tools should be the average of the smallest and largest measurements.
- (38) Campground/Recreational Vehicle Park. An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for

recreational purposes and retains an open air or natural character.

- (39) Canopy, Marquee or Awning. Any roof-like structure extended over a sidewalk or walkway.
- (40) Cemetery. Land used or dedicated to the burial of the dead, including crematoriums, mausoleums and maintenance facilities for the upkeep of the cemetery.
- (41) Cemetery, Commercial/ Public. Cemetery where plots are sold for burial.
- (42) Cemetery, Family. Cemetery used exclusively for the burial of family members only at no charge and being no larger than 2 acres.
- (43) Certificate of Occupancy. Official certification that a premises conforms to provisions of the Unified Development Ordinance and Building Code and may be used or occupied.
- (44) Church or Place of Religious Worship. An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.
- (45) Circulation Area. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.
- (46) Circumference. The distance around an area, the line that bounds a circle.
- (47) Circumference at Breast Height (CBH). The tree trunk circumference measured in inches, using a tape measure, at a height of 4.5 feet above ground level. If a tree forks into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the fork.
- (48) Club or Lodge (Private, Nonprofit, Civic or Fraternal). A nonprofit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

(49) Cluster Development – (88) Family Membership Transfer Exemption

- (49) Cluster Development. A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.
- (50) Commercial Vending Unit. Commercial Vending units are defined as free standing equipment or structures not generally associated with another business that do not require a full time person to be on site during normal operational use. This equipment

or structure is specifically designed for a customer to purchase a commodity or to conduct business through the use of cash, coin, or money cards while remaining on premises for a brief period of time. Access may be available by car or by pedestrian traffic. This equipment or structure shall be self-contained and either by design, construction, or installation have all necessary provisions for the health, safety, and welfare of the general public; this definition does not limit the location of retail soda and snack vending machines, news paper boxes and other small vending machines normally associated with a business; nor does it permit the use of sweepstake machines in this capacity, which is covered elsewhere in the Ordinance.

- (51) Common Open Space. Land reserved primarily for the leisure and recreational use of all PUD residents and owned and maintained in common for them generally through a homeowner's association.
- (52) Condominium. A dwelling unit in which the ownership of the occupancy rights to the dwelling unit is individually owned or for sale to an individual and such ownership is not inclusive of any land.
- (53) Contractor, General. One who is engaged in one or more aspects of building construction and/or land development through a legal agreement.
- (54) Contractor, Trades. One who accomplishes work or provides facilities under contract with another and specifically engages in a specialized trade, such as plumbing, heating, wiring, sheet metal and roofing work, etc.
- (55) Convenience Store. A one-story, retail store that is designed and stocked to sell primary food, beverages, other household items, and gasoline sales.
- (56) Cosmetology/Grooming (Canine/Feline). A person or business engaged in the occupation of cleaning ,clipping nails, clipping hair, etc. of canines (dogs) or felines (cats).
- (57) Cosmetology Instruction (Canine/Feline). A person or business engaged in the teaching of canine (dog) or feline (cat) cosmetology/grooming.
- (58) County Commissioners. The Board of Commissioners of Brunswick County, North Carolina.
- (59) Coverage. An area determined in square footage.
- (60) Curb. A structural element at the edge of an existing or proposed street or other way, generally at a higher elevation than the adjacent edge of roadway, installed to deter vehicles and water from leaving the roadway, to otherwise control drainage, to delineate the edge of existing or future roadways or driveways, to present a more finished appearance to the street, to assist in the orderly development of the roadside, and to contribute to the stability and structural integrity of the pavement.

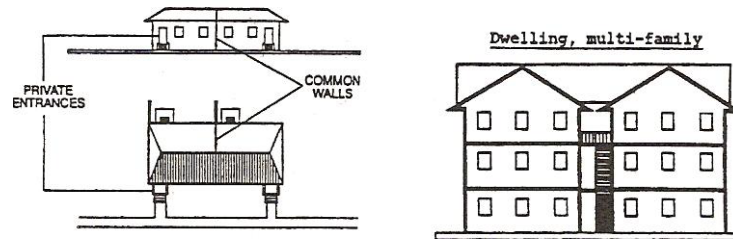
- (61) Curtain Wall. A continuous, uniform foundation enclosure constructed of brick or concrete blocks and that is unpierced except for required ventilation and access.
- (62) Day Care Facilities. Any child care arrangement which provides day care on a regular basis for more than four hours per day for more than five children, wherever operated and whether or not operated for profit, except that the following are not included:
- Public schools;
 - Nonpublic schools whether or not accredited by the NC State Department of Public Institution, which regularly and exclusively provide a course of grade school instruction to children who are of public school age;
 - Summer camps having children in full-time residence;
 - Summer day camps; and
 - Bible schools normally conducted during vacation periods.
- (63) Day Care Facility (Adult). The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The following are exempt from this definition: (1) those that care for three people or less; (2) those that care for two or more persons, all of whom are related by blood or marriage to the operator of the facility; and (3) those that are required by other statutes to be licensed by the Department of Health and Human Services.
- (64) Dedication. A gift by the owner, a right to use of land for a specified purpose or purposes, or a mandatory requirement to exercise the right to develop. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.
- (65) Determination. A written, final, and binding order, requirement, or determination regarding an administrative decision of the Administrator. Such determinations shall be provided to interested parties in accordance with NCGS 160D-403(b).
- (66) Diameter: the length of a straight line passing thru the center of a circle and connecting two points (the thickness or width).
- (67) DBH (Diameter at Breast Height): The tree trunk diameter measured in inches, using a tape measure at a height of 4.5 feet above ground level. If a tree forks into the multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the fork.

Conversion Table					
Diameter at Breast Height (DBH) to Circumference at Breast Height (CBH)					
<u>Inches</u> <u>DBH</u>	<u>Inches</u> <u>CBH</u>	<u>Inches</u> <u>DBH</u>	<u>Inches</u> <u>CBH</u>	<u>Inches</u> <u>DBH</u>	<u>Inches</u> <u>CBH</u>

1	3.14	11	34.56	21	65.97
2	6.28	12	37.70	22	69.12
3	9.42	13	40.84	23	72.26
4	12.57	14	43.98	24	75.40
5	15.71	15	47.12	25	78.54
6	18.85	16	50.27	26	81.68
7	21.99	17	53.41	27	84.82
8	25.13	18	56.55	28	87.96
9	28.27	19	59.69	29	91.11
10	31.42	20	62.83	30	94.25

- (68) Development Approval. An administrative or quasi-judicial approval made pursuant to this ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, and variances. The term also includes all other regulatory approvals required by regulations adopted pursuant to this ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued.
- (69) Development Permit. A required permit issued by the Zoning Administrator prior to generalized pre-construction lot clearing.
- (70) Dimensional Nonconformity. A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
- (71) Dish Antenna or Earth Station. A dish antenna, or earth station, is any accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or a transmitter relay located in planetary orbit.
- (72) Dish Antenna or Earth Station Height. The height of the antenna or dish shall be that distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.
- (73) Dish Antenna or Earth Station Setback. The setback of a dish antenna shall be measured from the center mounting post supporting the antenna.
- (74) Drive-in Restaurant. An establishment at which employees provide curb service or drive-through window service to customers and at which the customer does not customarily leave his vehicle; or accommodations through special equipment or construction from which a person may receive a service or place an order. Self-service gas pumps are excluded from this definition.

- (75) Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.
- (76) Dwelling. A building or portion thereof designed, arranged, or used for permanent living quarters. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, or other structures designed for transient residence.
- (77) Dwelling, Duplex. A building containing two dwelling units, other than where a second dwelling unit is permitted as an accessory use.



- (78) Dwelling, Multi-Family. A building containing three or more dwelling units, except where permitted as an accessory use.
- (79) Dwelling, Single-Family. A building containing one dwelling unit only, but may include one separate unit as an accessory use to be occupied only by employees, guests, or relatives of the household.
- (80) Easement. A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.
- (81) Essential Site Improvements. Any construction or reconstruction of site development feature required by local, state, or federal regulations, ordinances, or laws, such as underground drainage, off-street parking, driveways, retention areas or similar improvements required for the intended use of the site, which cannot be accommodated on the site without removal of trees.
- (82) Eave. The lowest point of the lowest edge of a roof line projecting beyond the sides of a building.
- (83) Existing Construction. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM (Flood Insurance Rate Map) or before January 1, 1975, for FIRM's effective prior to that date. "Existing construction" may also be referred to as "existing structures."
- (84) Existing Manufactured Home Park or Manufactured Home Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site

grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

- (85) Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).
- (86) Familial Relationship. For purposes of this ordinance, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.
- (87) Family. One or more persons related by blood, marriage or adoption living together as a single housekeeping unit and have a recognized head of household. For the purposes of this Ordinance, such persons may include gratuitous guests, contributing roommates, and domestic servants employed on the same premises. A group of seven (7) or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.
- (88) Family Membership Transfer Exemption. Subdivision activity for transfer to a family member (family member transfer) provided that no more than ten (10) lots are created. The following standards shall apply:

- Connections to public water and/or sewer may be required.
- An access easement at least 30 feet in width shall provide access to lots created on the interior of the site from a public roadway.
- The following Statement shall appear on the plat and be signed by the Grantor(s) and Grantee(s) prior to approval:

The Grantor(s) and Grantee(s) certify that the Grantee(s) is within four (4) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Town of Calabash Unified Development Ordinance, and that none of the lots shall be conveyed to non-family members for a period of not sooner than four (4) years.

Grantor(s)

Grantee(s)

THE PROPOSED STREET(S) WILL NOT BE MAINTAINED BY

THE TOWN OF CALABASH AND THE MAINTENANCE SHALL
BE THE RESPONSIBILITY OF ALL ADJACENT PROPERTY
OWNERS TO SAID STREET(S)

- Failure of any person to comply with the provisions contained herein shall be in violation of this Ordinance, and all of the remedies of this ordinance and applicable State Statutes.

(89) Flood Damage Prevention Ordinance – (137) Multi-unit Assisted Housing

FLOOD DAMAGE PREVENTION ORDINANCE DEFINITIONS

(89) Flood Damage Prevention Ordinance Definitions. For the purpose of Article 19, Flood Damage Prevention Ordinance (FDPO), the following items, phrases and words shall have the meaning herein:

- “Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
- “Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.
- “Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
- “Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.
- “Area of Shallow Flooding” means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- “Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.
- “Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

- “Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
- “Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.
- “Basement” means any area of the building having its floor subgrade (below ground level) on all sides.
- “Building” see “Structure”.
- “Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
- “Coastal Area Management Act (CAMA)” means North Carolina’s Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).
- “Coastal A Zone (CAZ)” means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))
- “Coastal Barrier Resources System (CBRS)” consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).
- “Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 19 FDPO Part II, Section 19-6 of the UDO, as Zone VE.
- “Design Flood”: See “Regulatory Flood Protection Elevation.”

- “Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- “Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.
- “Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
- “Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- “Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- “Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.
- “Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before April 1, 1985.
- “Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.
- “Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters; and/or
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- “Flood Boundary and Floodway Map (FBFM)” means an official map of a

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

- “Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.
- “Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.
- “Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)
- “Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
- “Flood Prone Area” see “Floodplain”
- “Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
- “Floodplain” means any land area susceptible to being inundated by water from any source.
- “Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.
- “Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.
- “Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- “Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards

for preventing and reducing flood loss and damage.

- “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
- “Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
- “Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- “Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.
- “Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.
- “Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
- “Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

- “Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
- “Historic Structure” means any structure that is:
 - (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
 - (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

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

- “Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
 - (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
 - (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
 - (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
 - (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map

Revision may be issued by FEMA to revise the effective FIRM.

- “Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:
 - (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
 - (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
 - (c) Available with special features enabling off-street or off-highway operation and use.
- “Limit of Moderate Wave Action (LiMWA)” means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).
- “Lowest Adjacent Grade (LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
- “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- “Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.
- “Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- “Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.
- “New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

- “Non-Conversion Agreement” means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.
- “Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
- “Otherwise Protected Area (OPA)” see “Coastal Barrier Resources System (CBRS)”.
- “Post-FIRM” means construction or other development for which the “start of construction” occurred on or after April 1, 1985, the effective date of the initial Flood Insurance Rate Map.
- “Pre-FIRM” means construction or other development for which the “start of construction” occurred before April 1, 1985, the effective date of the initial Flood Insurance Rate Map.
- “Primary Frontal Dune (PFD)” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
- “Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.
- “Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- “Recreational Vehicle (RV)” means a vehicle, which is:
 - (a) Built on a single chassis;
 - (b) 400 square feet or less when measured at the largest horizontal projection;
 - (c) Designed to be self-propelled or permanently towable by a light duty truck;
 - (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
 - (e) Is fully licensed and ready for highway use.

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

- “Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.
- “Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard.” In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least 2 feet, which is the state minimum; greater than 2 feet above the highest adjacent grade is optional..
- “Remedy a Violation” means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
- “Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- “Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.
- “Sand Dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- “Shear Wall” means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.
- “Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).
- “Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
- “Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a

one percent (1%) or greater chance of being flooded in any given year, as determined in Part 2, Section 19-6 of UDO Article 19 Flood Damage Prevention Ordinance.

- “Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
- “Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
- “Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.
- “Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:
 - (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 19 FDPO Part III Section 19-17 of this ordinance.
- “Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The

bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

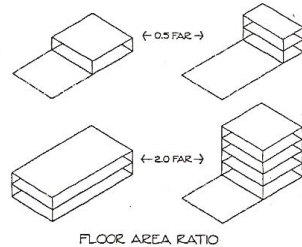
It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question.

- “Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.
- “Variance” is a grant of relief from the requirements of this ordinance.
- “Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.
- “Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- “Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(90) Floor Area. For determining off-street parking and loading requirements:

- (a) The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.
- (b) However, "floor area" for the purposes of measurement for off-street parking spaces shall not include:
 - Floor area devoted to primarily storage purposes (except as otherwise noted herein);

- Floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or
- Base floor other than area devoted to retailing activities, to the production processing of goods, or to business or professional offices.



- (91) Floor Area, Gross. The total floor area enclosed within a building.
- (92) FAR (Floor Area Ratio). The maximum square foot amount of total floor area including all stories and all uses permitted for each square foot of land area.
- (93) Fence. Any type of freestanding wall or structural enclosure, other than a wall of a building, whether of wood, metal, wire, concrete, or other material.
- (94) Fill. Any material used to raise the elevation of the surface of the land, excluding a grade base and paving.
- (95) Forestry. A woodland area where all of the following occur:
- (a) the growing of trees;
 - (b) the harvesting of timber, leaves, or seeds;
 - (c) the regeneration of either timely replanting of trees or natural generation in accordance with a forest management plan acceptable to the Division of North Carolina Forest Resources;
 - (d) the application of "Best Management Practices," including the NC Department of Environment and Natural Resources, "Forest Practice Guidelines Related to Water Quality," and all successor documents.
- (96) Frontage. All property abutting on one side of a street measured along the street line.
- (97) Garage, Private. A building used as an accessory to or a part of the main building permitted in any residential district, and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.
- (98) Garage, Public. Any building or premises, except those described as a private garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired, or kept for hire or sale.
- (99) Gate. A door or other device attached to a fence which, when opened, provides a means

of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier and screen as a part of the fence in which it is attached.

(100) Gross Site Area. The total square footage of the proposed development as determined by actual on-site survey.

(101) Group Home. A home with support and supervisory personnel that provides room and board, personal care, and/or habilitation services in a family environment.

a. Class A Group Home. A dwelling unit in which up to six (6) Special Needs Persons reside in a group home setting, in accordance with the family care home provisions in NCGS 160D-907.

b. Class B Group Home. A dwelling unit in which between seven (7) and twelve (12) Special Needs Persons reside in a group home setting. Also a dwelling unit in which a smaller number of Special Needs Persons reside in a group home setting other than in accordance with the family care home provisions in NCGS 160D-907.

c. Class C Group Home. A dwelling unit in which between thirteen (13) and twenty (20) Special Needs Persons reside in a group home setting. Similar facilities serving twenty-one (21) or more Special Needs Persons shall be considered an Assisted Living Residence.

(102) Ground Cover. Any plant under three (3) feet in height.

(103) Half Street. One half of a required street right-of-way located adjacent to the perimeter of a subdivision for future combination with a half street in an adjacent existing or future subdivision.

(104) Hedge. A group of bushes, shrubbery or other plant material so situated as to be similar in function and serve the same ends as a fence; also known as a "living fence".

(105) Historic Structure means any structure that is:

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

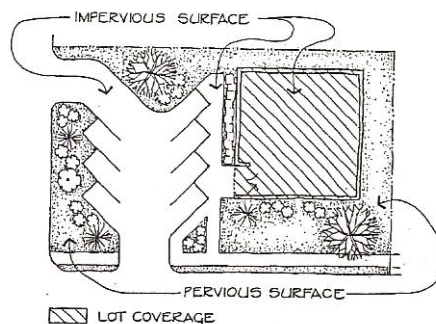
the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

(106) Home Occupation. A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a structural accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

(107) Hotel or Motel. A building or other structure kept, used, maintained, advertised as, or held out to the public to be a place where:

- Sleeping accommodations are supplied for compensation to transient or permanent guests or tenants;
- Rooms are furnished for the accommodation of such guests; and
- May have one or more dining rooms, restaurants, or cafes where meals are served.

(108) Impervious Surface. Any material that significantly reduces and prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roof, patios, balconies, decks, streets, parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surface.



(109) Infiltration. The passage or movement of water into the soil sub-surface.

(110) Improved Landscape. Gardens, parks, parking lots, or any other proposed outside improvements including any planned vegetation, public street furniture, masonry walls, fences, light fixtures, steps and pavements, or other appurtenant features.

(111) Improvements. The addition of any building, accessory building, parking area, loading area, fence, wall, hedge, lawn or mass planting (except to prevent soil erosion) to a lot or parcel of property.

(112) Incompatible Use. A use or service which is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous, or discordant.

- (113) Inoperative Vehicle. Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Ordinance, any vehicle which is registered with the North Carolina Department of Motor Vehicles and has a current North Carolina motor vehicle registration license affixed to it shall not be considered inoperative.
- (114) Intensive Livestock Operations. Any enclosure, pen, feedlot, building, or group of buildings intended to be used or actually used to feed, confine, maintain or stable cattle, horses, sheep, goats, turkeys, chickens, swine, or any combination thereof, with at any time a total of 100 animal units or more present, where their dietary needs are met primarily by means other than grazing.
- (115) Jail. A municipal or county operated facility designed for the holding of individuals for trial, contempt, or punishment when the period is not to exceed 180 days.
- (116) Junk. Pre-used or unusable metallic parts and other nonmetallic manufactured products that are worn, deteriorated or obsolete, making them unusable in their existing condition, but are subject to being dismantled and salvaged.
- (117) Junk Yard. Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled including but not limited to, scrap iron, and other metals, paper, rags, vehicles, rubber tires, and bottles. A junk yard includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.
- (118) Junked Vehicle. A motor vehicle that (1) is partially dismantled or wrecked; (2) cannot be self-propelled or moved in the manner in which it was originally intended to move; (3) is more than five years old and appears to be worth less than \$100.00; or (4) does not display a current license plate when the motor vehicle is required by laws of this state to have such a license plate to operate on public roads, unless stored within an enclosed structure.
- (119) Kennel. A commercial operation that: (a) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (b) engages in the breeding of animals for sale.
- (120) Landmark Tree. Any Live Oak with a minimum CBH of 24 inches, or any tree with a 72 inch or more CBH.
- (121) Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles except to be used, and accessible to such vehicles.
- (122) Lot. One or more contiguous properties occupied or intended for occupancy by a main building or group of main buildings and accessory buildings, together with such

yards, open spaces, lot width and lot area as required by this Ordinance. Includes the words "parcels," "plot," and "tract."

(123) Lot, Depth. The depth of a lot is the average distance between the front and back lot lines measured at right angles to its frontage and from corner to corner.

(124) Lot Lines. The lines bounding a lot.

(125) Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the County Register of Deeds by the owner or predecessor in title thereto.

(126) Lot Types.

- Corner Lot. A lot located at the intersection of two or more streets.
- Double Frontage Lot. A continuous (through) lot which is accessible from both streets upon which it fronts.
- Interior Lot. A lot other than a corner lot with only one frontage on a street.
- Single-Tier Lot. A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.
- Through Lot. A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

(127) Lot Width. The straight line distance between the points where the building setback line intersects the two side lot lines.

(128) Manufactured Home. A dwelling unit that:

- Is not constructed in accordance with the standards set forth in the North Carolina State Building Code; and
- Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis; and
- Exceeds 40 feet in length and eight feet in width.

(129) Manufactured Home, Class A. A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

- The manufactured home has a length not exceeding four times its width;
- The manufactured home has a minimum of 700 square feet of enclosed living area;

- The pitch of the roof of the manufactured home has a minimum vertical rise of two and two-tenths feet for each 12 feet of horizontal run (2.2' and 12') and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- The home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home;
- The moving hitch, wheels and axles, transporting lights have been removed.
- Manufactured home to meet the requirements for Wind Zone 2.
- All roof structures shall provide an eaves projection of six inch minimum.

(130) Manufactured Home, Class B. A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following criteria:

- The manufactured home has a minimum of 576 square feet of enclosed living area.
- The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous masonry, vinyl, aluminum, or wood curtain wall, unpierced except for required ventilation and access is installed under the perimeter of the manufactured home.
- The moving hitch, wheels and axles, transportation lights have been removed.
- Manufactured home to meet the requirements for Wind Zone 2.

(131) Manufactured Home Park. Any site or tract of land, of contiguous ownership upon which manufactured home spaces are provided for manufactured home occupancy whether or not a charge is made for such service. This does not include manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sales.

(132) Manufactured Home Space. A plot of land within a manufactured home park designed for the accommodation of one mobile home.

(133) Mobile Office. A structure that has been converted, or originally designed and constructed, for commercial or office use.

- (134) Modular Structure. A structure that is constructed in accordance with the construction standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings and composed of components substantially assembled in a manufacturing plant and transplanted to the building site for final assembly and placement of a permanent foundation.
- (135) More Intensive Use. A use that will have a greater impact on the surrounding area than the previous use, including activities which generate more traffic, require more employees or service deliveries, or utilize more square footage than the previous use existing on the site.
- (136) Multi-phased Development. A development containing 25 acres or more that is both of the following: (1) submitted for development permit approval to occur in more than one phase and (2) subject to a master development plan and statutory vesting rights request with committed elements showing the type and intensity of use of each phase.
- (137) Multi-unit Assisted Housing with Services. An assisted living residence, as opposed to a group home, in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multi-unit assisted housing with services programs are required to register with the Division of Facility Services and to provide a disclosure statement. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:
- Emergency response system;
 - Charges for services offered;
 - Limitations of tenancy;
 - Limitations of services;
 - Resident responsibilities;
 - Financial/legal relationship between housing management and home care or hospice agencies;
 - A listing of all home care or hospice agencies and other community services in the area;
 - An appeals process; and
 - Procedures for required initial and annual resident screening and referrals for services.

- Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, are exempt from the regulatory requirements for multi-unit assisted housing with services programs.

(138) Natural Feature – (182) Setback

- (138) Natural Feature. Any outside landscape feature on the site such as trees, shrubs, or rock formations.
- (139) Net Acreage, Acres, Land Area, Square Footage of Land Area. Land area with streets, right-of-ways, driveways which serve as access to more than two dwelling units or uses, and major transmission line easements not included in its measurement.
- (140) Net Buildable Area. The total area within the project property boundary less:
- (a) all easements for storm drain(s) or utilities;
 - (b) highway and street rights-of-way;
 - (c) sediment basins and water retention ponds;
 - (d) wetlands, defined by CAMA and/or US Corps of Engineers;
 - (e) water and wastewater treatment facilities;
 - (f) local or state designated historic sites;
 - (g) water areas including seasonal ponds; and
 - (h) 50% of all open space requirements.
- (141) New Construction. (a) Any development occurring on property utilized for governmental, commercial, or residential purposes for which a building permit is required. (b) For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this Ordinance and includes any subsequent improvements to such structures.
- (142) New Manufactured Home Park. A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after October 21, 1996.
- (143) New or Used Car Lot. Any building or land used commercially for the sale of or offering for sale of any motor vehicle or vehicles.
- (144) Motor Vehicle or Vehicles is defined as any machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.
- (145) Night Club. An establishment for evening entertainment generally open until the early morning that serves alcohol and may offer food. Patrons may enjoy music, comedy acts, a floor show and/or dancing

- (146) Nonconforming Lot. A lot existing at the effective date of this Ordinance or any amendment to it that cannot meet the minimum area or lot width or depth requirements of the district in which the lot is located.
- (147) Nonconforming Use. The use of a building, mobile home, or land which does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated in this Ordinance.
- (148) Nuisance. Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.
- (149) Nursing Home (Convalescent Home). A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.
- (150) Official Maps or Plans. Any maps or plans officially adopted by the Calabash Board of Commissioners.
- (151) Open Space. An area (land and/or water) generally lacking in manmade structures and reserved for the enjoyment of residents of a Planned Unit Development, or other group project. Common open spaces may contain accessory structures, and improvements necessary or desirable for religious, education, non-commercial, recreational, or cultural uses.
- (152) OSR (Open Space Ratio). The total square footage not covered by manmade structures.
- (153) Overhead Canopy. Any structure placed over, around, or near a fuel pump island, drive-up bank teller facility, or similar use, and intended to provide lighting and/or protection from the elements for facility users.
- (154) Overlay Zoning District. An overlay district is a zoning district which applies in addition to any other zoning districts so that any parcel of land lying in an overlay district may also lie in one (1) or more of the zoning districts provided for by this Ordinance. The development of all uses permitted by right or by special use permit in the underlying district shall be subject to the requirements of both the overlay district and the underlying zoning district. If the overlay zoning district requirements conflict with the underlying zoning district requirements, the requirements of the overlay

zoning district shall take precedence.

- (155) "Park Model" Recreational Vehicle. A manufactured home typically built in accordance with the construction requirements of HUD National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. but because of their limited size they are not required to be labeled by the HUD manufacturing housing program. Since these park model type units are not under the jurisdiction of the HUD program, they are labeled and sold as recreational vehicles.
- (156) Parking Lot. An area or plot of land used for the parking of vehicles.
- (157) Parking Space. A space intended to accommodate one vehicle, plus the necessary access space.
- (158) Perimeter Landscape Strip. A planted strip of land along the perimeter of a parking facility or commercial development.
- (159) Personal Recreational Watercraft Livery Business. A livery or rental business that engages in renting personal watercraft (jet skis, boats, parasailing and similar vessels which primarily uses a motorized source of power).
- (160) Planned Building Group. A residential project containing three or more attached dwelling units; a residential project with attached dwelling units for individual ownership; a commercial and/or institutional project located in an O/I, CB, HC, RC or PUD zoning district; or a commercial and/or office-institutional project located within an O/I, CB, RC, HC, or PUD zoning district involving the construction of a building greater than 7,000 square feet; a commercial and/or office institutional project within an O/I, CB, or PUD zoning district involving the construction of more than one building; or a manufactured home park.
- (161) Planned Unit Development. A development consisting of multi-family and/or a mixture of dwellings, which may contain limited commercial development, under unified ownership and control to be developed and improved as a single entity under a development plan approved by and completely in accordance with and subject to the requirements of this Ordinance.
- (162) Planning Board. The public agency in a community usually empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan.
- (163) Planting Strip or Area. A pervious ground surface, aside from walkways, which is required or used for landscaping purposes.
- (164) Plat. A map showing the location, boundaries, and ownership of individual properties.
- (165) Pre-Construction Lot Clearing. The removal of plant material including trees, shrubs,

ground cover, stumps, roots and the like.

- (166) Premises. A single piece of property as conveyed in a deed or a lot or a number of adjacent lots on which is situated a land use, a building, or group of buildings designed as a unit or on which a building or group of buildings are to be constructed.
- (167) Private Driveway. A roadway serving two or fewer lots, building sites, or other division of land and not intended to be public ingress or egress.
- (168) Property Clearing. The removal of trees from undeveloped property for the purpose of timber sales, value enhancement, or other nondevelopmental purposes.
- (169) Public Agency. An agency of the local, state, or federal government.
- (170) Public Sewage Disposal System. A system serving two or more dwelling units and approved by the County Health Department or the State Department of Natural Resources and Community Development.
- (171) Quasi-Judicial Decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, and appeals.
- (172) Quasi-Judicial Evidentiary Hearing. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this ordinance.
- (173) Recreation Area or Park. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.
- (174) Recreational Vehicle. A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable.
- (175) Recreational Vehicle Parks. Any single parcel of land upon which two or more recreational vehicles, occupied for sleeping purposes, are located regardless of whether or not a charge is made for such purposes. Recreational Vehicle Parks are referred to in this Ordinance as "RV Park(s)."
- (176) Redevelopment. Renovation of an existing structure or structures which totals at least 60 percent of the original structure.
- (177) Reservation. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

- (178) Retaining Wall. A permanent artificial device constructed to change or preserve the finished grade of a given parcel of land, no portion of which is above finished grade on more than one side of the retaining wall.
- (179) Right-of-Way. An area owned or maintained by the Town of Calabash, the State of North Carolina, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.
- (180) Screening. The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, vegetation, or other natural or man-made visual barriers.
- (181) Server-Based Electronic Game Promotion. A system that has all of the following components:
- A database containing a pool of game promotions entries, with each entry associated with a prize value.
 - The participant purchases, or otherwise obtains, a prepaid card, and receives one or more game promotions entries with that purchase.
 - The game promotion entries can be revealed in any of the following ways:
 1. At a point-of-sale terminal.
 2. At a game terminal with a display that simulates a game ordinarily played on a slot machine or a video gaming machine.
- (182) Setback. The required distance between every structure and the lot lines of the lot on which it is located; the minimum distance between a property line and a regulated activity.

(183) Sign Definitions – (192) Storage Facilities

- (183) Sign Definitions. For the purposes of Article 20, Sign Regulations, the following items, phrases, and words shall have the meaning herein:
- Animation. The movement, or optical illusion of movement, of any part of the sign structure, design or pictorial segment, including the movement of any illumination, or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign or any sign or part of a sign shall be considered to be animation. Also included in this definition are signs having chasing action, which is the action of a row of lights commonly used to create the appearance of motion, and automatic changeable copy boards.
 - Banner. A sign or outside advertising display having the letters, illustrations or visual representation applied to cloth, paper, vinyl, fabric or similar material.

- Building Frontage. The linear length of a building face or the building face used as the principle entrance.
- Commercial Center. Two or more retail stores or service establishments, professional offices, or any other businesses serving a community or neighborhood, not necessarily owned by one party nor by a single land ownership, which occupy a common and/or adjacent building(s) on premises and utilize common parking area(s).
- Decorative Lighting. A string of outdoor lights suspended between two points.
- Flag. An outside display having illustrations or visual representations of a decorative nature. Governmental flags are considered to be flags.
- Frontage. The length of the property line of any one premises serving as a public street right-of-way line. For lots with multiple frontages, the principal street frontage shall be the same as that to which the building is oriented. Should the owner wish to direct the sign solely to a frontage other than the principal frontage, the linear length of this frontage will be used to calculate the allowable area of the sign. Should the owner wish to direct the sign to both frontages, the frontage having the highest vehicular traffic volume shall be used to calculate the allowable area.
- Group Development. Multi-family development having multi-family units grouped within more than one structure. This does not include townhouse development.
- Public Agency. An agency of the local, state, or federal government.
- Sign. Any letters, pictorial representation, symbol, emblem, flag, banner, illuminated or animated device, displayed in any manner whatsoever, which directs attention of persons to such device, and which is located within the view of the general public from a public way. Customary graphics found on soft drink and newspaper dispensaries and similar machines shall not be considered as signs.
- Sign, Building Identification. A sign bearing only the name, number(s), letter(s), and/or symbol(s) which identifies a particular building.
- Sign, Business Identification. A sign bearing the name, trademark or symbol of the business located on the premises. A business identification sign contains the name of the business enterprise located on the same premises as the sign and the nature of the business conducted there.
- Sign, Directional. An off-premises sign whose content is limited exclusively to the identification or a use or occupancy located elsewhere and which tells the location of or route to such use or occupancy.
- Sign, Double-Faced. A sign with two faces which are usually parallel, but may be V-

shaped.

- Sign, Flashing. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such is in use. For the purpose of this Ordinance, any moving, illuminated sign shall be considered a "flashing sign." Such signs shall not be deemed to include time and temperature signs or public messages displays using electronic switching.
- Sign, Freestanding. A sign supported by a sign structure placed in the ground and which is wholly independent of any building, fence, vehicle or object (other than the sign structure) for support or any sign which projects more than five feet from the side of the building to which it is attached. A freestanding sign may contain a sign or signs on one side only, or it may be a V-shaped structure or one containing signs back-to-back. A freestanding sign structure is one sign.
- Sign, Gross Area. The entire area within any two continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.
- Sign, Height of. The vertical distance measured from the ground to the top of the sign face or sign structure, whichever is greater.
- Sign, Identification. A sign used to display only the name, address, crest, or trademark of the business, individual, family, organization, or enterprise occupying the premises, the profession of the occupant or the name of the building on which the sign is displayed; or a permanent sign announcing the name of a subdivision, shopping center, tourist home, group housing project, church, school, park, or public or quasi-public structure, facility or development and the name of the owners or developers.
- Sign, Off-Premises. A sign which directs attention to a business, commodity, service, or establishment not exclusively related to the premises where such sign is located or to which it is affixed.
- Sign, On-Premises. A sign which directs attention to a business, commodity, service, or entertainment on the premises upon which the sign is located.
- Sign, Portable. Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground. The term includes signs on wheels or on portable structures, tent signs, A-frame signs and similar devices, and any sign not secured or securely affixed to the ground or a permanent structure.
- Signs, Projecting. Any sign other than a parallel sign, which projects from a wall or other vertical surface to which it is attached more than six inches.

- Sign, Public Information. A sign erected and maintained by a public agency that provides the public with information including, but not limited to, speed limit signs, stop signs, city limit signs, street name signs, and directional signs. These signs are in no way regulated by this Ordinance.
 - Sign Structure. A supporting structure erected or intended for identifying/ advertising purposes, with or without a sign thereon, situated upon or attached to real property, upon which any sign is fastened, affixed, displayed, applied or a part of, provided, however, this term shall not include a building, fence, flat pole, illumination standards or sailboat masts.
 - Sign, Roof. A sign which is displayed above the eaves of a building.
 - Sign, Wall. Any sign attached flat to the exterior surface wall or any other vertical surface of a building. Such sign may also be painted directly onto a vertical surface; does not include inside temporary window signs.
 - Window Sign, Permanent. Any sign which is painted on or attached to the interior side of a window or glass door, or which is mounted inside a window so as to be visible through the window.
 - Window Sign, Temporary. A window sign of a temporary nature used to direct attention to the sale of merchandise, or a change in the status of the business, including signs for sales, specials, going out of business, grand openings and the like.
- (184) Site Plan. A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, open space, common open space, buildings, major landscape features both natural and manmade and, depending on requirements, the location of proposed utility lines.
- (185) Site-Specific Vesting Plan. A site-specific vesting plan consists of a plan submitted to the Town in which the applicant requests vesting pursuant to this ordinance and in accordance with the required procedure for approval, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property.
- (186) Special Needs Persons. Battered individuals, abused children, foster children, pregnant women and their children, runaway children, temporarily or permanently disabled mentally, emotionally, or physically, individuals recovering from drug or alcohol abuse, and all other persons who possess a disability that is protected by either the provisions of the Americans with Disabilities Act of 1990, 42 USC 12101, the Fair Housing Act as amended, 42 USC 3601 et seq. or NCGS Ch. 168, Art. 3, as they may be amended, but does not include any persons who currently use illegal drugs, persons who have been convicted of the manufacture or sale of illegal drugs or persons with or without disabilities who present a direct threat to the health, safety, or property of

others.

- (187) Special-Use. A use that would not be an appropriate general use with restriction or review in a particular zoning district, but which, if controlled as to number, area, location or relation to surrounding uses, would promote the public health, safety or general welfare.
- (188) Special-Use Permit. A permit issued by the Board of Commissioners that authorizes the recipient to make use of property in accordance with the requirements of the Town of Calabash Unified Development Ordinance as well as any additional requirements imposed by the Board of Commissioners. The term includes permits previously referred to as conditional use permits.
- (189) Start of Construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
- (190) Storage. Any use associated with the primary business whether retail or wholesale, all storage must be directly related materials to the primary structure or business.
- (191) Storage Units. Any and all facilities for the primary use of individual material and private property either for long term or short term rent or lease located within single or multiple buildings.
- (192) Storage Facilities. A business where storage of different characters such as storage units or free storage are located within a contained, open or closed structures.

(193) Street – (206) Survey

- (193) Street. A thoroughfare which affords access to abutting property and is recorded as such in the office of the Brunswick County Register of Deeds. The following classifications apply:
- Alley. A strip of land, owned publicly or privately, set aside primarily for vehicular

service access to the back or side of properties otherwise abutting on a street.

- Avenue. Short distance, medium speed connectors between neighborhoods and core areas. Avenues may circulate around square or neighborhood parks.
- Boulevard. A broad often landscaped thoroughfare which provides multi-lane access to commercial and mixed-use buildings, and carries regional traffic.
- Cul-de-Sac. A short street having but one end open to traffic and other end being permanently terminated and a vehicular turnaround provided.
- Freeway, Expressway, or Parkway. Divided multi-lane roadway designed to carry large volumes of traffic at relatively high speeds. A *Freeway* is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An *Expressway* is a divided highway with full or partial control of access and generally with grade separations at major intersections. A *Parkway* is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development. When a parkway enters town, it becomes a boulevard.
- Frontage Road. A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.
- Half Street. One half of a required street right-of-way located adjacent to the perimeter of a subdivision for future combination with a half street in an adjacent existing or future subdivision.
- Lane. A narrow street providing access to single-family homes.
- Local Residential Street. Cul-de-sacs, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.
- Main Street. The principal street of a small town providing low-speed access to neighborhood, commercial, and high density residential areas.
- Major Thoroughfares. Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
- Minor Collector Street. A road which provides services to small local communities and links with locally important traffic generators with their rural hinterland.
- Minor Thoroughfares. Minor thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it

to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

- Local Street. Any link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.
- Residential Collector Street. A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.
 1. Dead End Roads. These roads are open at one end only without special provisions for turning around and have collector characteristics. Dead end streets may be intended for extension to adjacent properties.
 2. Connecting Roads. The roads which serve as the connection road system between other roads within the subdivision and the thoroughfare system.
 3. Loop Roads. A road that has its beginning and ending points on the same route. It is more than a mile in length and has collector characteristics.
 4. Other Roads. These are other roads having "collector" type function in the thoroughfare system.
 5. Subdivision Access Road. This is a road built through vacant property to provide access to property being developed. This road would not have lots platted along it.
- Trail. A marked or established path or route which provides non-motorized access throughout a neighborhood.

(194) Street Line. The line between the street right-of-way and abutting property.

(195) Street Types.

- a. Public Street. A public right-of-way which affords access to abutting properties and when such rights-of-way are designated as public, it shall be presumed to be an offer of dedication to the public.
- b. Private Street. An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with NC General Statutes 136-102.6.

(196) Street Yard. The area of a parcel immediately adjacent to a street right-of-way and reserved for planting.

(197) Structure. Anything constructed or erected, the use of which requires location in or on the land or attachment to something having a permanent location in or on the land.

- (198) Structural Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders except for repair or replacement.
- (199) Subdivider. Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.
- (200) 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 these divisions is created for the purpose of sale or building development (whether immediate or future). It shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part (the Planning and Zoning Board certification of exempt status must be indicated prominently on the approved plat so that it may be recorded with the Register of Deeds):
- a. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations. [GS 160D-802 (a)(1)]
 - b. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved. [GS 160D-802 (a)(2)]
 - c. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors. [GS 160D-802 (a)(3)]
 - d. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations. [GS 160D-802 (a)(4)]
 - e. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes [GS 160D-802 (a)(5)]
- (201) Subdivision, Minor. One involving no new public or private streets or roads, where the entire tract to be subdivided is five acres or less in size, and where four or fewer lots result after the subdivision is completed, or a lot qualifying under the Family Membership Transfer exemption.
- (202) Subdivision, Minor Expedited. The division of one existing parcel of land under single ownership that is not exempt per NC General Statute 160D-802(a); (1) where no part of the tract or parcel to be divided has been divided in the 10 years prior to the proposed division; (2) the entire area of the tract or parcel to be divided is greater than 5 acres; (3) after division, no more than three lots result from the division and all resultant lots comply with all lot dimension size requirements of the applicable zoning district and the use of the lots is in conformity with the applicable zoning district; and (4) a permanent means of ingress and egress is recorded for each.
- (203) Substantial Damage. Damage of any origin sustained by a structure during any one-

year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the value of the structure. before the damage occurred. See definition of substantial improvement. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

(204) Substantial Improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the current market value of the structure. before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(205) Substantially Improved Existing Manufactured Home Park. Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads which equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, construction, or improvement commenced.

(206) Survey. A drawing showing metes and bounds property boundaries, and other measurable physical characteristics of a parcel of land, prepared and sealed by a registered surveyor.

(207) Taproom – (231) Zoning Vested Right

(207) Taproom or Tasting Room-An area maintained predominately for the purpose of tasting, selling and consumption of the alcohol beverages either manufactured on the premises (or at a production facility of an associated use) or to sample, taste, consume alcoholic beverages at a retail establishment (such as a wine shop, grocery store or gift shop, etc.), including the sale of take home containers such as kegs, bottles and cans as may be allowed under Federal, State and County law. *(Amended 4-11-17)*

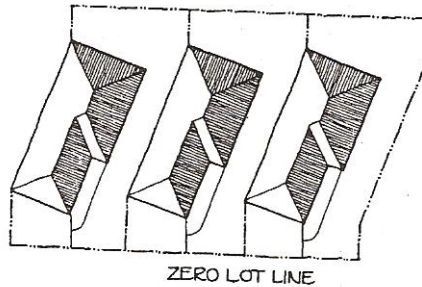
(208) Telecommunication Tower. A tower facility, including, but not limited to, radio and television transmission towers or similar utilities, microwave towers, and mobile telephone or radio towers. This term shall not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes that are under 100 feet in height and that, at a height of fifty feet above the base, have a maximum horizontal measurement of eighteen inches nor shall it include any tower erected by a public authority for public safety or emergency service

communication purposes.

- (209) Telecommunications Facility. A communications tower or antenna and any associated accessory structures and equipment.
- (210) Telephone Communication Facility, Unattended. A windowless structure containing electronic telephone equipment that does not require regular employee attendance for operating.
- (211) Telephone Promotional Sweepstakes:
- (a) Each retail outlet shall have no more than four sweepstake machines in the retail outlet
 - (b) Each retail outlet shall prominently post the rules of the sweepstakes promotion
 - (c) Each retail outlet shall have available and prominently displayed “free play” applications
 - (d) Establishments shall be in accordance with all North Carolina State requirements (reference Sandhill Amusements Preliminary Injunction from Wake County File NO. 09 CVS 5719)
- (212) Tourist Home/Bed & Breakfast. Any dwelling occupied by the owner or operator in which rooms are rented to guests, for lodging of transients and travelers for compensation, and where food may be served.
- (213) Trailer. Any vehicle or structure originally designed to transport something or intended for human occupancy for short periods of time. Trailers shall include the following:
- (a) Travel Trailer. A vehicular, portable structure built on a wheeled chassis, designed to be towed by a self-propelled vehicle for use for travel, recreation, or vacation purposes, having a body width ten feet or less or body length 32 feet or less when equipped for road travel.
 - (b) Recreational Vehicle. A self-propelled vehicle or portable structure mounted on such a vehicle designed as a temporary dwelling for travel, recreation, and vacation.
 - (c) Camping Trailer. A folding structure manufactured of metal, wood, canvas, plastic, or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation, or vacation use.
 - (d) Tow Trailer. A structure designed to be hauled by another vehicle and to transport vehicles, boats, or freight.
- (214) Tree. A woody plant, with one main stem, at least 12 feet tall, and having a distinct head in most cases.

- (215) Tree Removal. The cutting or removing of a tree.
- (216) Use. Any continuing or repetitive occupation or activity taking place upon a parcel of land or within a building including, but not limited to, residential, manufacturing, retailing, offices, public services, recreation, and educational.
- (217) Use, Principal. The purpose for which land or structures thereon are designed, arranged, or intended to be occupied or used; or for which it is occupied, maintained, rented, or leased.
- (218) Variance. A variance is a relaxation of the terms of the Unified Development Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant a literal enforcement of the code would result in unnecessary and undue hardship.
- (219) Vegetation. Trees, shrubs, and other ground cover.
- (220) Vegetation Plan. A required informational drawing, which accurately identifies size, location, and species of all landmark trees on a property and describing proposed land disturbing development activity.
- (221) Video Gaming Machine. A slot machine as defined in NC General Statutes 14-306.1(e).
- (222) Violation of Unified Development Ordinance. Failure of a structure, use, lot, situation, or other development to be fully compliant with the requirements of this Ordinance.
- (223) Visible. Capable of being seen without visual aid by a person of normal visual acuity.
- (224) Warehouse. A building where goods are stored before distribution to retailers or kept in reserve.
- (225) Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.
- (226) Yard, Front. A yard across the full width of the lot, extending from the front lot line of the building to the front line of the lot, including the area of steps, eaves, and uncovered porches, but not including the areas of covered porches.
- (227) Yard, Side. An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or, where no rear yard is required, to the rear line of the lot.
- (228) Yard, Rear. A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

(229) Zero Lot Line. The absence of any yard requirements.



(230) Zoning Compliance. A certification by the Administrator or his authorized agents that a course of action to use or occupy a tract of land or a building, or to erect, install or alter a structure, building or sign situated ~~in the~~ within the municipal limits or extraterritorial jurisdiction of the Town, fully meets the requirements of this Ordinance.

(231) Zoning Vested Right. A right pursuant to NC General Statutes 160D-108 and 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific vesting plan.

ARTICLE 3. ADMINISTRATIVE MECHANISMS

PART I. ADMINISTRATOR

Section 3-1. Administrator

- (A) The Administrator and/or designated agent is hereby authorized to enforce and interpret the provisions of this Ordinance. This official shall have the right to enter upon the premises at any reasonable time necessary to carry out his/her duties. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the Administrator and/or designated agent. Appeal from his decision may be made to the Board of Adjustments. No staff member shall make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the town, as determined by the Board of Commissioners.
- (B) In administering the provisions of this Ordinance, the Administrator and/or designated agent shall:
- (1) Make and maintain records of all applications for permits and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved.
 - (2) File and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for inspection at reasonable times by any interested party.
 - (3) Transmit to the appropriate board or commission and the Board of Adjustments all applications and plans for which their review and approval is required.
 - (4) Conduct scheduled inspections of premises with valid cause or complaint and, upon finding that any of the provisions of this ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. In exercising this power, staff are authorized to enter any premises

within the planning jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

PART II. PLANNING BOARD

Section 3-2. Authority

The Planning Board of the Town, also known as the Planning and Zoning Board, is created pursuant to NC General Statutes 160-361 and shall hereafter be referred to as the Board.

Section 3-3. Purpose

The Board shall act in an advisory capacity to the Board of Commissioners in the matter of guiding and accomplishing a coordinated and harmonious development of the area within the Town's jurisdiction.

Section 3-4. Membership

- (A) The Board shall consist of seven members. Six shall be residents of the town and shall be appointed by the Board of Commissioners. These six members shall hold office initially, as follows: Three members for a term of three years and three members for a term of two years. Thereafter, all six members shall serve three-year terms. Vacancies occurring for reasons other than expiration of term shall be filled by the Board of Commissioners as they occur for the period of the unexpired term. Members may be removed from office by the Board of Commissioners for neglect of duty, failure to attend three consecutive meetings, misconduct, or failure to attend 75% of the meetings. A written statement of the reasons for removal shall be filed with the Town Clerk at the time of removal.
- (B) The remaining member shall be a resident of Brunswick County who resides outside the town but within the extraterritorial jurisdiction of the town subject to proportional representation for population of residents and shall be appointed by the Brunswick County Board of Commissioners. The population estimates for this calculation shall be updated no less frequently than after each decennial census. This member shall serve a three-year term of office. If a vacancy in this position occurs for reasons other than expiration of term, it shall be filled by the County Board of Commissioners for the period of the unexpired term. Members may be removed from office for reasons previously cited. However, if such were to occur, a written statement of the reasons for removal shall be requested from the County Board of Commissioners by the Town Board of Commissioners at the time of removal.

Section 3-5. Jurisdiction and Voting

The member appointed by the County Board of Commissioners shall have equal rights, privileges, and duties with the other members of the Board in all matters pertaining to the regulation of both the extraterritorial area and the areas within the corporate limits. Four members of the Board shall constitute a quorum for the taking of any action on any matters.

Section 3-6. Operational Procedures

- (A) The Board shall elect a Chairperson and create and fill such other offices as it may deem necessary.
- (B) The term of the Chairperson and other offices shall be one year, with eligibility for reelection.
- (C) Proceedings of the Board shall be conducted in accord with Chapter 31 of the General Code of Ordinances.
- (D) A record shall be maintained of its members' attendance and of its resolutions, discussions, findings, and recommendations which shall be a public record.
- (E) The Board shall hold at least one meeting monthly, and all of its meetings shall be open to the public.
- (F) There shall be a quorum of four members.
- (G) The vote of a majority of those members present shall be sufficient to decide matters before the Board, provided a quorum is present. All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Section 3-7(B).
- (H) Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting upon a recommendation of the Board. During a special meeting, no other business may be considered except that which was specified by advanced notice. The Clerk shall notify all members of the Board in writing not less than five days in advance of such special meeting. Notice of time, place, and subject of such meeting shall be published in a newspaper having general circulation in the Town of Calabash when possible in accordance with NC General Statutes 143-128.12(b).
- (I) The petitioner or applicant who is on the agenda may withdraw the petition or application at anytime; but if a motion is pending to make a recommendation to grant or deny, such motion shall have precedence.
- (J) The Board shall render its decisions in the form of a recommendation on any properly filed petition or application within 60 days after its first planning board meeting following submittal and shall transmit a signed copy of the decision to

the Administrator to submit to the Board of Commissioners for consideration. The 60-day time period will not begin until the petitioner has furnished the Administrator with all required permits. The decision shall be in the form of a letter signed by the Chairperson and Clerk and attached to the minutes. Such letter shall indicate the reasons for the Board's determination and its findings.

Section 3-7. Rules of Conduct

Members of the Board may be removed for cause, including violation of any rule stated below:

- (A) Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from four regularly scheduled Board meetings during any one calendar year shall be considered cause for a recommendation to the Board of Commissioners of dismissal from the Board.
- (B) No Board member shall take part in the hearing, consideration, or determination, of any application in which he/she is reasonably likely to have a direct, substantial, and readily identifiable personal or financial impact with regard to the outcome. Personally interested is defined to mean that a Board member or a Board member's family either owns, has financial interest in, or has property abutting property being considered by the Board. A Board member shall not vote on any amendment if the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (C) No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the Board, or staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board.
- (D) Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.
- (E) Members shall serve at the pleasure of the Board of Commissioners.

Section 3-8. General Powers

- (A) The general powers and duties of the Board are:
 - (1) To make studies of the area within its jurisdiction.
 - (2) To determine objectives to be sought in the development of the study area.
 - (3) To prepare and adopt plans for achieving these objectives.

- (4) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area.
 - (5) To prepare and recommend ordinances promoting orderly development along lines indicated in the Comprehensive Plan and advise concerning proposed amendments of such ordinances.
 - (6) To determine whether proposed developments conform to the principles and requirements of the Comprehensive Plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan.
 - (7) To keep the Board of Commissioners and the general public informed and advised as to these matters.
 - (8) Review and comment on proposed zoning text and/or map amendments.
 - (9) To perform any other duties that may lawfully be assigned to it.
- (B) In order to effectively carry out its powers and duties, the Board is empowered to:
- (1) Gather statistics on past trends and present conditions with respect to population, property values, the economic base of the area, and land use; and such other information as is important or likely to be important in determining the amount, direction, and kind of development within the Town's jurisdiction and its various parts.
 - (2) With prior approval by the Board of Commissioners, make, cause to be made, or obtain special studies on the location, the condition, and the adequacy of specific facilities, which may include but are not limited to studies of housing; commercial and industrial facilities; recreation area; public facilities; and traffic and parking facilities.
 - (3) May develop internal subcommittees dedicated to participate in areas of study, ordinance development or for any other specific purpose within the Board's jurisdiction. Such committees shall be responsible to the Planning and Zoning Board and shall be advisory in nature.

Section 3-9. Miscellaneous Powers and Duties

- (A) The Board shall have the authority to promote public interest in the understanding of its recommendations, plans, reports, and other materials. To achieve these objectives, the Board may:
 - (1) With prior approval of the Board of Commissioners, publish and distribute copies of materials and may employ other means of publicity and education as it deems necessary.

- (2) Authorize its members, members of such committees as it may appoint, to attend planning conferences, meetings of planning institutes or hearings upon pending planning legislation.
 - (3) By resolution, agree to reimburse, within the limits of the Board's budget and authority, its members and members of committees it may appoint, for reasonable expenses incurred in connection with the performance of their official duties. All reimbursements must be signed by the Chairperson of the Planning Board and countersigned by a member of the Finance Committee of the Board of Commissioners. The Board shall maintain a documentation of all such expenditures.
- (B) The Planning Board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the plans. Before recommending any such plans to the Board of Commissioners, the Planning Board may hold at least one public hearing thereon.

Section 3-10. Staff and Finances

- (A) In order to carry out its duties set forth herein, the Board may request that the Board of Commissioners:
- (1) Enter into and carry out the terms of contracts with the state and federal governments or any agencies thereof under which financial or other planning assistance is made available to the Town and may agree to comply with any reasonable conditions that are imposed upon such assistance.
 - (2) Enter into and carry out the terms of contracts with any other town, county or regional council or planning agency under which it agrees to pay the other local unit of government or planning agency for technical planning assistance.
 - (3) Contract with Town planners, engineers, architects, and other consultants for such planning related services it may require.
- (B) Expenditures of the Board shall be within the amounts appropriated for that purpose. The Town shall not be liable for indebtedness incurred by the Board unless an appropriation is made by the Board of Commissioners for such purpose as is necessary to perform the duties specified herein in accordance with NC General Statutes 160D.

Section 3-11. Comprehensive Plan

- (A) The comprehensive plans, with the accompanying maps, plats, charts, and descriptive matter, shall be and show the Board's recommendations to the Board of Commissioners for the development of the area, including, among other things, the general location, character, and extent of streets, bridges, boulevards,

parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, power, gas, sanitation, transportation, communication, and other purposes; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, properties, utilities, or terminals.

- (B) The comprehensive plans and any ordinances or other measures to effectuate the plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the Town and its environs which will, in accordance with present and future needs, best promote health, safety, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.
- (C) In conformance with NC General Statutes 160D-701, 160D-604, and 160D-605, all zoning regulations shall be made in accordance with Town plans. Planning Board review of zoning amendments shall require written comments on the consistency of the proposed amendment with the comprehensive plan and any other relevant plans (such as a small area plan, a corridor plan, or a transportation plan) that have been adopted by the governing board. However, a statement from the Planning Board that the proposed amendment is inconsistent with a plan does not preclude the governing board from adopting the amendment. The governing board is also required to adopt a statement on plan consistency before adopting or rejecting any zoning amendment. This statement must also explain why the board believes the action taken is reasonable and in the public interest. The statement adopted by the governing board on plan consistency is not subject to judicial review.

Section 3-12. Zoning Amendments

The Board may initiate, from time to time, proposals for amendment of the Zoning Code and Map, based upon its studies and plans. In addition, it shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the Zoning Code and Map.

Section 3-13. Subdivision Regulations

- (A) The Board shall review, from time to time, the existing regulations for the control of land subdivision in the area and submit to the Board of Commissioners its recommendations, if any, for the revision of these regulations.

- (B) The Board shall review and make recommendations to the Board of Commissioners concerning all proposed plats of land subdivision.

Section 3-14. Public Facilities

The Board shall review with the Town officials and report its recommendations to the Board of Commissioners upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, on the establishment of building lines, mapped street lines, and proposals to change existing street lines. However, whether or not there is a recommendation from the Board, the Board of Commissioners may, if it deems wise, take final action on any such matter at any time.

Section 3-15. Annual Report

The Board shall, in April of each year, submit in writing to the Board of Commissioners a written report of its activities, and an analysis of the expenditures to date for the current fiscal year, and shall submit to the Board of Commissioners for budget consideration its requested budget of funds needed for operation during the ensuing fiscal year.

PART III. BOARD OF ADJUSTMENT

Section 3-16. Establishment

- (A) Membership. The Board of Adjustment shall consists of five members and three alternates. Alternate members may serve in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Four of the five members and four of the alternates shall be residents of the Town and shall be appointed by the Board of Commissioners. One of the members and one alternate shall be appointed by the County Board of Commissioners and shall be residents of the extraterritorial jurisdiction (ETJ). All members of the Board, and alternates (while sitting in the absence of a member) shall have equal voting rights in all matters being considered by the Board. Members of the Board and alternates serving at the time of adoption of this Ordinance shall continue in office until such time as the terms of their office expire or action is taken to remove as described in subsection (D). Vacancies occurring for reasons other than expiration of terms shall be filled by the Board of Commissioners; in the case of ETJ members and ETJ alternates, by the County Board of Commissioners, as such may occur and for the period of the unexpired term.
- (B) Alternate Members. Alternate members appointed by the Board of Commissioners will serve in the absence of members appointed by the Board of Commissioners. An alternate member appointed by the County Board of Commissioners will only serve in the absence of the regular ETJ member.

- (C) Length of Term. Three members and one alternate appointed by the Board of Commissioners shall have terms of three years. The remaining members, one member and three alternates, shall have terms of two years. ETJ member and alternate shall serve as such may be prescribed by the County Board of Commissioners (one member three years and one alternate two years).
- (D) Conditions. All members wishing to sit on the Board of Adjustment shall attend a scheduled seminar on the Statutory Powers and Duties of the Zoning Board of Adjustment prior to appointment to the Board of Adjustment.

Section 3-17. Procedure

- (A) Officers. The Board of Adjustment shall elect a Chairperson and a Vice Chairperson from its membership and such other officers as the Board deems best.
- (B) Meetings. The Board shall adopt rules and bylaws in accordance with the provisions of this Ordinance and of Chapter 160D of the General Statutes of North Carolina. All meetings of the Board shall be scheduled at a regular place and time and shall be open to the public. The Chairman shall have the authority to call a special meeting if he deems such a meeting to be necessary. The Chairman, or in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses by subpoena. The Board shall make findings of fact and conclusions of law in each proceeding brought before it. The Board shall also keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, a record of such fact; and the final disposition of appeals shall be recorded by resolution indicating the reasons of the Board thereof, all of which shall be a public record. No final action shall be taken on any matter without the concurring vote of four-fifths of the members of the Board.
- (C) Duties. It is the intent of this Article that all questions of interpretation and enforcement shall first be presented to the Administrator or his authorized representative, and that such questions shall be presented to the Board of Adjustment only on any appeal from the decision of the Administrator or his authorized representative, and that recourses from the decision of the Board of Adjustment shall be to the courts as provided by law, and any and all other duties and powers prescribed by statutes.

Section 3-18. Power and Duties

- (A) Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Administrator in the enforcement of this Ordinance. A concurring vote of four-fifths of the members of the Board shall be necessary to reverse, wholly or partly, any such decision. Vacant positions on the Board and members who are

disqualified from voting on a quasi-judicial matter shall not be considered “members of the board” for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

- (B) No change in permitted uses may be authorized by variance. (See Article 10)
- (C) Variances. To authorize upon appeal in specific cases variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in undue hardship, so that the spirit of this Ordinance shall be observed and substantial justice done.
 - (1) A charge shall be made to the appellant according to Town policy in order to cover administrative and advertising costs as set forth in Section 1-10.
 - (2) Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable as specified in Article 7.
- (D) Administration of Oaths. The Chairman or any member temporarily acting as chairman is authorized to administer oaths to witnesses in any matter coming before the Board. All testimony before the Board must be under oath and recorded.
- (E) A member of the Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Section 3-19. Appeals from the Board

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NC General Statute 160D-1402. Appeals shall be filed within the times specified in NC General Statute 160D-1405(d). The decision of the Board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The Town Clerk shall certify to the Town Administrator that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

PART IV. BOARD OF COMMISSIONERS

Section 3-20. Powers and Duties

- (A) The Board of Commissioners, in considering special-use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Article 12 of this Ordinance and NC General Statute 160D-406.
- (B) In considering proposed changes in the text of this Ordinance or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of Article 5.
- (C) Unless otherwise specifically provided in this Ordinance, in acting upon special-use permit requests or in considering amendments to this Ordinance or the zoning map, the Board of Commissioners shall follow the regular voting and other requirements as set forth in other provisions of the Town code.
- (D) A Board of Commissioner member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board member shall not vote on any amendment if the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. When exercising quasi-judicial functions pursuant to this ordinance, a Board member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

ARTICLE 4. CHANGES AND AMENDMENTS

Section 4-1. Changes and Amendments

The Board of Commissioners may, on its own motion, or upon recommendation of the Planning Board, or upon application by any person, amend, supplement, change, modify or repeal the regulations or district boundaries established by this Ordinance. An application by an interested person may be submitted to the Board of Commissioners through and reviewed by the Planning Board, which may consider its merit and make a recommendation to the Board of Commissioners. In no case shall final action by the Board of Commissioners be taken on amending, changing, supplementing, modifying or repealing the regulations or district boundaries hereby established until a public hearing has been held by the Board of Commissioners, or on its behalf by the Planning & Zoning Board, at which parties in interest and citizens shall have an opportunity to be heard. Any such change to this UDO shall be adopted by Ordinance.

Section 4-2. Action by the Applicant

(A) Initiation of Amendments.

- (1) Proposed changes or amendments to the Zoning map may be initiated by the Board of Commissioners, Planning Board, Town Administration, Board of Adjustment, or by the owner, or his agent, or interested party, of property within the area proposed to be changed.
- (2) Proposed amendments to the text of the Ordinance may be initiated by any interested party.
- (3) No amendment to zoning regulations or the zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. For purposes of this section, "down-zoning" means an amendment that affects an area of land in one of the following ways: (1) by decreasing the development density of the land to be less dense than was allowed under its previous usage or (2) by reducing the permitted uses of the land that are specified in the Ordinance to fewer uses than were allowed under its previous usage.

- #### **(B) Application.**
- An application for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary, and the names and addresses of the owner or owners of the property involved. Such application shall be filed not later than two weeks prior to the meeting of the Planning Board at which the application is to be considered.

- (C) Fee. A nonrefundable fee, according to the schedule approved by the Board of Commissioners, shall be paid to the Town for each application for an amendment to cover the costs of advertising and other administrative expenses involved.
- (D) Public Hearing Notices.
- (1) Whenever there is a zoning map amendment, 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 at least 10 but not 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 Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.
 - (2) The first-class mail notice required under subsection (D)(1) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town of Calabash may elect to either make the mailed notice provided for in subsection (D)(1) of this section or may as an alternative elect to publish once a week for four successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The final two advertisements shall comply with and be deemed to satisfy the provisions of NC General Statutes 160D-601. The advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the addresses listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. The person or persons mailing the notices shall certify to the Board of Commissioners that fact, and the certificates shall be deemed conclusive in the absence of fraud.
 - (3) As required by NC General Statutes 160D-601, when a zoning map amendment is proposed, the Town of Calabash 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 at least 10 but not more than 25 days prior to the date of the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.

- (4) Before adopting, amending, or repealing any text of this Ordinance, the Board of Commissioners shall hold a public hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (E) Reapplication for Amendment. With the exception of requests originating with the Planning Board, Board of Adjustment, or Town Administration, an application for any rezoning of the same property or any application for the same amendment to the Zoning Code text shall be permitted only once within any one year period. The Board of Commissioners, by 75% affirmative vote of its total membership present, may waive this restriction if it finds an emergency exists.

Section 4-3. Application for Zoning Amendments

No proposed zoning amendment shall be considered by the Board of Commissioners nor a public hearing held until an application containing the following information is submitted by the applicant: a statement of the present zoning regulations or district boundary, the name and signature of the applicant, and if an amendment to the zoning map is proposed, the tax parcel number of the lot proposed to be rezoned, the names and addresses of the owners of the lot in question, and the use of each adjacent property. The applicant shall provide any additional information related to the proposed amendment requested in writing by the Administrator, Planning Board, or Board of Commissioners.

Section 4-4. Action by the Planning Board

- (A) Every proposed amendment, supplement, change, modification, or repeal of this Ordinance may be referred to the Planning Board for its recommendation and report. The Planning Board may hold a public hearing, at which the Board of Commissioners may sit concurrently with the Planning Board if the Board of Commissioners so wishes. Notice of the public hearing shall be published in a newspaper of general circulation in the Town at least once a week for two successive weeks prior to the hearing according to state regulations and by mailing notices to adjoining property owners. Notice may also be made by posting the property concerned. The Board of Commissioners shall receive from the Planning Board written notice of the hearing and its subject matter.
- (B) The following policy guidelines shall be followed by the Planning Board concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:
 - (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 the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
 - (5) The proposed change is in accord with any Town plans and sound planning principles.
- (C) When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. If a zoning map amendment qualifies as a "large-scale rezoning" under NC General Statute 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.
- (D) A petition to amend the district boundaries or regulations established by this Ordinance may be referred to the Planning Board for its next regular monthly meeting or any called special meeting, provided it has been filed, complete in form and content, at least two weeks prior to such meeting. Otherwise, referral may be deferred until the following monthly meeting.
- (E) If a public hearing is to be called, it shall be called for the next regularly scheduled meeting or any called special meeting, allowing time for proper advertisement.
- (F) The Planning Board shall render its decision on any properly filed petition within 60 days after the introduction of such petition and shall transmit its recommendation and report, including the reasons for its determinations, to the Board of Commissioners.

Section 4-5. Action by the Board of Commissioners

- (A) Before taking such lawful action as it may deem advisable, the Board of Commissioners shall consider the Planning Board's recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within 60 days, the proposed amendment shall be deemed to have been approved by the Planning Board. The Board of Commissioners shall hold its own public hearing before making a decision on any text or zoning map amendment.
- (B) When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Commissioners that at the time of action on the amendment the Board of Commissioners was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under NC General Statute 160D-602(b), the Board of Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- (C) Additional Reasonableness Statement for Rezonings. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under NC General Statute 160D-602(b), the Board of Commissioners statement on reasonableness may address the overall rezoning. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

Section 4-6. RESERVED

Section 4-7. Withdrawal of the Application

Any application submitted in accordance with the provisions of Article 4 for the purpose of amending the regulations or district boundaries established by this Ordinance may be withdrawn no less than ten days prior to the public hearing, but fees are nonrefundable.

Section 4-8. Conditional Zoning Amendments

(A) Purpose

- (1) The conditional rezoning (CZ) process provides an avenue for certain types of project proposals to be granted a great degree of design flexibility balanced with a significant public engagement process.
- (2) A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or special use, on small- and large-scale projects.
- (3) All uses listed as part of any application must be in the same format and description as listed in the table of uses.
- (4) Except as provided herein, all applications to establish a conditional zoning district must follow the regulations prescribed in this section in addition to the standard zoning map amendment (rezoning) process as described in this ordinance.

(B) Application And Conditional Zoning Review Procedure

- (1) The application for a conditional rezoning approval shall also be accompanied by an application to amend the zoning map (rezoning) to the conditional development zoning district. The rezoning application shall be submitted concurrently with the conditional zoning master development plan. The approved master development plan shall provide the framework for development in the conditional zoning district. All applications must include a master development plan, supporting information and text which specifies the use or uses intended for the property, dimensional standards, and any development standards to be approved concurrently with the rezoning application. Development standards include such things as parking, landscaping, design guidelines, and buffers.
- (2) All proposals for a conditional zoning application shall be in accord with the uses specified for conditional zoning as provided in Section 10-1. Table of

Permitted and Special Uses, which shall abide by the general design criteria for projects within the planning jurisdiction of the Town of Calabash.

- (3) An application for conditional zoning approval shall be accompanied by 12 hard copies and one (1) digital copy of a conditional zoning master development plan.
- (4) The master development plan shall be prepared by and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the State of North Carolina. The master development plan shall include the submission requirement contained herein and any other information deemed necessary by the Administrator, Planning & Zoning Board, or Board of Commissioners.
- (5) The Administrator or his/her designee will review the conditional zoning master development plan and may require a technical review procedure. The technical review committee may include, but not necessarily be limited to, the following individuals/departments: Administrator, Building Inspector, Town Administrator, fire department, police department, NC Division of Coastal Management, NC Department of Environmental Quality, Brunswick County Utilities, or Brunswick County Environmental Health.
- (6) The Administrator shall, in writing, provide a recommendation to the Planning & Zoning Board within 90 days following receipt of the complete application for a conditional zoning district proposal and associated master development plan.
- (7) Following receipt of recommendation from the Planning & Zoning Board, the Board of Commissioners shall approve, conditionally approve, or deny the conditional zoning master development plan.
- (8) When evaluating an application for the creation of a conditional zoning district, the Planning & Zoning Board and Board of Commissioners shall consider the following:
 - (a) The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
 - (b) There is convincing demonstration that the proposed development would be in the general public interest and not merely in the interest of an individual or small group.
 - (c) There is convincing demonstration that the development would be appropriate in the area included in the proposed change.

- (d) There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by the proposal.
 - (e) The proposed change is in accord with any Town plans and sound planning principles.
 - (f) The report of results from the public input meeting.
 - (9) The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the Board of Commissioners holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing.
- (C) Public Input Meeting
- (1) Prior to the Planning & Zoning Board meeting on the rezoning application, the applicant must conduct one (1) public input meeting and file a report of the results with the Administrator.
 - (2) The report for the Planning & Zoning Board meeting at which the proposal is discussed will include a summary of the public input meeting.
 - (3) The applicant shall mail a notice for the public input meeting to the owners of all properties located within 500 feet of the perimeter of the project bounds not less than 10 days prior to the scheduled meeting. The applicant shall provide notice to the Administrator via telephone or electronic mail on the same day that notice is mailed to property owners.
 - (4) The notice shall include the time, date, and location of the meeting as well as a description of the proposal.
 - (5) The applicant's report of the meeting shall include:
 - (a) A copy of the letter announcing the meeting
 - (b) A list of adjoining property owners contacted
 - (c) An attendance roster
 - (d) A summary of the issues discussed
 - (e) The results of the meeting including changes to the project's proposal, if any.
- (D) Conditions To Approval of Petition

- (1) In approving a petition for the reclassification of property to a conditional zoning district, the Planning & Zoning Board may recommend, and the Board of Commissioners may request that the applicant add reasonable and appropriate conditions to the approval of the petition.
- (2) Any such conditions should relate to the relationship of the proposed use to the impact on Town services, 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 participants in the public input meeting, staff, Planning & Zoning Board, and Board of Commissioners find appropriate or the petitioner may propose. Such conditions to approval of the petition may include right-of-way dedication, easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
- (3) The petitioner shall consider and respond to any such conditions after the Planning & Zoning Board meeting and within seven (7) days prior to the staff report for the Board of Commissioners being published. If the applicant does not agree with the Planning & Zoning Board or staff's recommendations of additional conditions, the Board of Commissioners shall have the authority to accept any or all of the conditions forwarded from the review process. All conditions shall be consented to in writing by the applicant.
- (4) If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.

(E) Effect Of Approval

- (1) If a petition for a conditional rezoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved master development plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.
- (2) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning map by the appropriate district designation. A parallel conditional zoning shall be identified by the

same designation as the underlying general district followed by the letters "CZ" and the date of adoption in YYYYMM format (for example "R/C-CZ-202110").

- (3) No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan and/or subdivision plat. Residential projects shall follow the subdivision approval process in Article 24 following the approval of the conditional zoning request. Nonresidential, multifamily, or townhome projects may comply with the planned building group requirements of Section 14(F) by including said requirements on the submitted Master Development Plan. Accordingly, resubmittal of a planned building group site plan shall not be required.
- (4) Any violation of the approved regulations and conditions for the district shall be treated the same as any other violation of this ordinance and shall be subject to the same remedies and penalties as any such violation.

Section 4-9. Master Development Plans

The approved Master Development Plan shall provide the framework for development in a conditional zoning district.

(A) Review Procedures



(B) Submission Requirements

The Master Development Plan will contain, at a minimum:

- (1) Major thoroughfares
- (2) Cross-section of proposed road type(s)
- (3) Recreational space, golf courses, natural or man-made lakes,
- (4) Setbacks, residential areas (single-family, multi-family, townhouses, etc.)
- (5) Vicinity map, drainage and topography, approximate delineation of wetlands (404 jurisdictional wetlands) by Corps of Engineers or certified designee,
- (6) Proposed land dedication for public facilities (e.g., public safety facilities, schools, EMS) and acreage (if applicable)
- (7) Environmentally sensitive areas
- (8) North arrow
- (9) Proposed dimensional standards
- (10) Proposed uses
- (11) Proposed dimensional standards
- (12) Traffic generation calculations and traffic impact study if estimated traffic generated by the proposed development exceeds 100 peak hour trips.

Other relevant information considered pertinent by the applicant, Administrator, Planning & Zoning Board, or Board of Commissioners such as the total number of acres within the conditional zoning district, and the total number of residential and commercial units (broken down into various phases and acreage) based on net buildable area should be included. A proposed timetable of each development phase should also be included.

ARTICLE 5. APPEALS, VARIANCES, INTERPRETATIONS

Section 5-1. Appeals

- (A) An appeal from any final order or decision of the administrator may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed with the administrator and the Board of Adjustment when delivered to the Town Clerk, and the date and time of filing shall be entered on the notice by the planning staff.
- (B) The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to NC General Statute 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- (C) Whenever an appeal is filed, the administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from. The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the quasi-judicial evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
- (D) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with NC General Statute 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.
- (E) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be

made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

Section 5-2. Variances

- (A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Administrator. Applications shall be handled in the same manner as applications for permits in conformity with the provisions of Article 3.
- (B) A variance may be granted by the Board of Adjustment upon a showing of all of the following:
 - (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
 - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;
 - (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship;
 - (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved;
- (C) In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- (D) A variance may be issued for an indefinite duration or for a specified duration only.
- (E) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

Section 5-3. Interpretations

- (A) The Administrator is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. Appeal of this interpretation determination shall be handled as provided in Section 5-1.
- (B) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following map boundary rules shall apply:
 - (1) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
 - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following such jurisdictional boundaries.
 - (4) Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main track or tracks.
 - (5) Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such centerlines.
 - (6) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and if the shoreline is changed either naturally or as permitted by law, such a boundary shall be construed as moving with the actual shoreline.
 - (7) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted survey practices.
 - (8) Boundaries indicated as parallel to or extensions of natural or manmade features indicated in subsections 1 through 7 above shall be so construed.
 - (9) Distances not specifically indicated shall be determined by the scale of the official zoning map.
- (C) Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Section 5-1 of this Ordinance.

- (D) Interpretations of the location of floodway and floodplain boundary lines may be made by the administrator as provided in Section 19-5.

Section 5-4. Requests to be Heard Expeditiously

As provided in Article 6, the Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Article 6, and obtain the necessary information to make sound decisions.

Section 5-5. Burden of Proof in Appeals and Variances

- (A) When an appeal is taken to the Board of Adjustment in accordance with Section 5-1, the administrator shall have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (B) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 5-2(B), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 5-6. Board Action on Appeals and Variances

- (A) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption (see Section 3-17), then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board's decision if supported by more than one-fifth of the board's membership (excluding vacant seats).
- (B) Before granting a variance, the board must take a separate vote and vote affirmatively (by a four-fifths majority-see Section 3-17) on each of the six required findings stated in Section 5-2(B). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section 5-2(B) shall include a statement of the specific reasons or findings of fact supporting such motion.
- (C) A motion to deny a variance may be made on the basis that any one or more of the four criteria set forth in Section 5-2(B) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board's decision if supported by more than one-fifth of the board's membership (excluding vacant seats).

- (D) All individuals submitting evidence or testimony concerning an appeal or a variance shall be sworn in by the Chairman prior to submitting evidence or testimony.

ARTICLE 6. BOARD OF ADJUSTMENT HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Section 6-1. Hearing Required on Appeals and Applications

- (A) Before making a decision on an appeal or an application for a variance or special-use permit, or a petition from the planning staff to revoke a special-use permit, the Board of Adjustment or the Board of Commissioners, as the case may be, shall hold a quasi-judicial evidentiary hearing on the appeal or application.
- (B) Subject to Subsection (C), the quasi-judicial evidentiary hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify. All persons presenting evidence or arguments shall be sworn in by the Chairman prior to the presentation of any evidence or arguments.
- (C) The Board of Adjustment or Board of Commissioners may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (D) The hearing board may continue a quasi-judicial evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

Section 6-2. Notice of Hearing

The administrator shall give notice of any hearing required by Section 6-1 as follows:

- (A) Notice of quasi-judicial evidentiary 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; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing.
- (B) Notice shall be given to neighboring property owners by mailing a written notice not later than 10 days, but not more than 25 days, before the hearing to those persons who have listed for taxation real property any portion of which is located

within 150 feet of the lot that is the subject of the application or appeal. Within that same time period, notice shall also be given by prominently posting signs on the site that is subject to the hearing or on an adjacent street or highway right-of-way.

- (C) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 6-3. Evidence and Administrative Materials

- (A) The provisions of this section apply to all hearings for which a notice is required by Section 6-1.
- (B) The applicant, the Town, and any person who would have standing to appeal the decision under NC General Statute 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.
- (C) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.
- (C) The Administrator shall transmit to the hearing board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

Section 6-4. Modification of Application at Hearing

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

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

Section 6-5. Record

- (A) A tape recording shall be made of all hearings required by Section 6-1, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.
- (B) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

Section 6-6. Written Decision

- (A) The hearing board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the Town Clerk. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The Town Clerk shall certify to the Town Administrator that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
- (B) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NC General Statute 160D-1402. Appeals shall be filed within the times specified in NC General Statute 160D-1405(d).

ARTICLE 7. ENFORCEMENT AND REVIEW

Section 7-1. Complaints Regarding Violations

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

Section 7-2. Persons Liable

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided subject to Article 8.

Section 7-3. Procedures Upon Discovery of Violations

- (A) If the administrator finds that any provision of this Ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action and time frame necessary to correct it. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the Town Clerk that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Additional written notices may be sent at the administrator's discretion subject to Article 8.
- (B) The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 5-1.
- (C) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the administrator may seek a stop work order issued in accordance with NC General Statute 160D-404(b).

Section 7-4. Remedies and Penalties for Violations

The Administrator may pursue one or more of the following remedies and penalties to prevent, correct, or abate a violation of this Ordinance. Use of one of the authorized remedies and penalties does not preclude the Administrator from using any other authorized remedies or

penalties, nor does it relieve any party to the imposition of one remedy or penalty from imposition of any other authorized remedies or penalties.

- (A) Permit Revocation. In accord with the provisions of this Ordinance, the Administrator or Building Inspector may revoke any permit or other authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit or authorization granted under this Ordinance.
- (B) Permit Denial. As long as a violation issued under this Ordinance remains uncorrected, the Administrator may deny or withhold approval of any permit or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs.
- (C) Civil Penalty. Violation of this Ordinance subjects the violator to a civil penalty in a monetary amount established by the Board of Commissioners. The Administrator may impose a civil penalty by giving the violator a written citation, either in person or by certified or registered mail, return receipt requested. The citation shall describe the nature of the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the Town within 30 (thirty) days of the date the citation is received. If the violator fails to either pay the civil penalty or correct the violation within this time limit, the Administrator may institute a civil action in the nature of a debt in a court of competent jurisdiction to recover the civil penalty.

For purposes of assessing the amount of a civil penalty, each day the violation remains uncorrected starting 30 (thirty) calendar days following receipt of the correction order (or the receipt of the citation itself in the case of emergency enforcement) shall constitute a separate violation that subjects the violator to additional civil penalty.

Section 7-5. Permit Revocation

- (A) A zoning, sign, special-use, or variance permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted or any additional requirements lawfully imposed by the permit-issuing board. Such approvals may be revoked by notifying the permit holder in writing stating the reasons. The Administrator shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

ARTICLE 8. NONCONFORMING USES

Section 8-1. Existing Nonconforming Use May Be Continued

Except as otherwise provided herein, the lawful use of land or buildings existing at the effective date of this article may be continued although such use of building does not conform to the provisions hereof. Except as provided in this article, such existing nonconforming use or building may not be enlarged, extended, reconstructed or structurally altered except in compliance with the provisions of this article. However, nothing in this article shall be deemed to prevent the repair, strengthening or restoring to a safe condition any part of a building or structure in accord with applicable town codes.

Section 8-2. Existing Lots of Record

Were a lot of record at the time of the effective date of this article has less area or width than herein required in the district in which it is located, said lot may nevertheless be approved for use by the zoning administrator for any use permitted within the district in which it is located, provided all other dimensional requirements of the article shall be met. Any required variance shall be submitted to the zoning board of adjustment.

Section 8-3. Change of Use

If a change from one nonconforming use to another is proposed and no structural alterations are involved, the change may be permitted, provided:

- (A) The total amount of nonconforming space shall not be increased;
- (B) Greater nonconformity of dimensional restrictions such as height, density, setbacks, or other requirements such as off-street parking shall not be increased; and
- (C) The proposed use will have less of an adverse impact and will be more compatible with surrounding property than the current or previous nonconforming use.

Whenever a nonconforming use of land or building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted or nonconforming use.

Section 8-4. Replacement of Nonconforming Use, Building, or Structure

- (A) A nonconforming building, structure or use shall not be reestablished, reoccupied, or replaced with the same or similar building, structure or use after physical removal or relocation from its specific site location at the time of passage of this article.
- (B) The provisions shall not apply to the reconstruction, repair, or

reestablishment of the following:

- (1) Single-family structure used as single-family dwelling, including single-family structures and patio homes.
- (2) A multifamily structure within a group development of two (2) or more multifamily structures where seventy-five (75) percent of the total group development has not been damaged.
- (3) A structure containing townhouses dwellings within a group development of two (2) or more such structured where seventy-five (75) percent of the total group development has not been damaged.
- (4) Any existing commercial building can be rebuilt in its entirety. Stormwater controls shall be Subject to (Session Law 2008-2011: Senate Bill 1967: Section 2.(d) Exclusions; (3) Redevelopment activities that result in no net increase in built upon area and provide stormwater control equal to the previous development).

Such structures may be repaired, rebuilt, altered, or reestablished provided there is not an increase in the amount of land occupied by the structure, the height of the structure is not increased, the density is not increased, and other nonconformities are not created.

Section 8-5. Extension of Use Within Existing Building and Expansion of Space

The nonconforming use of a building may be hereafter extended throughout those parts of a building which were primarily arranged or designed for such use at the time of the enactment of this article and nonconforming single-family residences may expand floor area subject to the development standards of the district in which they are located.

Section 8-6. Extension or Enlargement of a Nonconforming Use or Building

- (A) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of any nonconforming use or building. In particular, physical alteration of structures or the placement of new structures is unlawful if such results in:
 - (1) An increase in the total amount of space devoted to a nonconforming use, except as provided in Section 5; or
 - (2) Greater nonconformity with respect to dimensional restrictions such as setback, height, density, or other requirements such as parking requirements.
- (B) Subject to the restrictions of subsection 6-1, physical alterations of existing structures or the placement of new structures shall be allowed pursuant to the following:

- (1) Expansions, alterations, or new construction resulting in an increase of less than twenty (20) percent of the total existing gross floor area.
- (2) Expansions, alterations, or new construction resulting in an increase of twenty (20) percent or greater in the total existing gross floor area, provided all applicable site requirements of this article complied with.

NOTE: Site requirements as used in section 8-6(A)(2) are defined as parking, landscaping and signage. For the purpose of allowing development flexibility for expansions to existing buildings, the following shall be allowed:

- (C) Existing unpaved parking spaces located seaward of the building control line may be allowed to remain unpaved and count as required parking.
- (D) In order to protect the intent of this article, it shall be unlawful to issue a permit for the expansion of a nonconforming structure that has previously expanded up to twenty (20) percent in gross floor area under the terms of this article, unless the requirements of subsection 8-6(A)(2) are complied with.

Section 8-7. Discontinuance or abandonment of Nonconforming Use

When the exception of residential uses, no nonconforming land use be reused except in conformity with applicable district regulations if discontinued or allowed to remain idle for a period of twelve (12) months. Extensions may be granted on appeal to the zoning board of adjustment.

Section 8-8. Intermittent Use

The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use.

ARTICLE 9. ZONING DISTRICTS AND ZONING MAP

PART I. ZONING DISTRICTS

Section 9-1. Establishment of Zoning Districts, and the Purpose Thereof

For the purpose of this Ordinance, the Town of Calabash and its extraterritorial jurisdiction is divided into the following classes of zones:

- (A) R-15: Residential District. This district is intended as a single-family residential area with a low to medium population density. Certain structures and, uses of governmental, educational, religious, and noncommercial recreational natures are either, permitted outright, or are subject to special conditions intended to preserve and protect the residential character of this district.
- (B) R-8: Residential District. The R-8 residential district is established as a district in which the principal use of land is for single-family, two-family, and multi-family residences. The regulations of this district are intended to provide areas of the community for those persons desiring residence and multi-family structures in medium density neighborhoods. The regulations are intended to discourage any use which because of its character would interfere with the residential nature of this district.
- (C) R-6: Residential District. The R-6 residential district is established as a district in which the principal use of land is for single-family, two-family, and multi-family residences. The regulations of this district are intended to provide areas in the community for those persons desiring small residences and multi-family structures in relatively high density neighborhoods. The regulations are intended to discourage any use which because of its character would interfere with the residential nature of this district.
- (D) R/C: Residential/Commercial District. The R/C district is established as a mixed use district in which manufactured homes, single-family, two-family, and multi-family residences as well as some commercial uses are permitted, with a pedestrian focus. Buffering requirements may be relaxed for commercial properties maintaining architectural compatibility with surrounding development.
- (E) MFH-II: Manufactured Home District II. The Manufactured Home District II is established as a district in which the principal use of land is for Class A and Class B manufactured homes and manufactured home parks.
- (F) PUD: Planned Unit Development. The purpose of the PUD district is to encourage the development of desirable, mixed-use living environments which meet the needs of the residents who live in them. Certain development privileges, through diversified land development standards in exchange for pre-planning and innovative design considerations, provide flexibility in utilizing new development concepts that are intended to:

- (1) Encourage creative development that preserves natural and scenic features.
- (2) Provide for abundant and accessible open and recreational space.
- (3) Promote the efficient use of land resulting in infrastructure networks that maximize the allocation of fiscal and natural resources.
- (G) O/I: Office and Institutional District. A district designed for office/institutional uses at low to moderate densities and multi-family housing.
- (H) CB: Central Business District. The regulations for this district are designed to permit a concentrated development of permitted uses.
- (I) HC: Highway Commercial District. The HC Highway Commercial District is established primarily for those businesses that serve the traveling public, require large areas for displays of goods, and are not oriented to the pedestrian shopper. Because these districts are generally located adjacent to main thoroughfares where they are subject to public view, they should provide an appropriate appearance, ample parking, and suitable landscaping.
- (J) AD: Agriculture District. This district is intended to preserve the present land use as of the date of adoption of the Unified Development Ordinance of the Town.
- (K) ID: Industrial District (Light). The ID Industrial District is established as a district in which the principal use of land is for industries which can be operated in a relatively clean and quiet manner and which will not be obnoxious to adjacent residential or business districts. The regulations are designed to prohibit the use of land for heavy industry which should be properly segregated and to prohibit any other use which would substantially interfere with the development of industrial establishments in the district.
- (L) CD: Conservation Districts. This district is intended to preserve and protect fragile estuarine environments from adverse affects created by incompatible uses.

PART II. OFFICIAL ZONING MAP

Section 9-2. Zoning Map is a Part of this Ordinance

The planning area is hereby divided into districts whose locations and boundaries are shown on the official zoning map for the Town of Calabash, which is hereby adopted by reference and declared to be a part of this Ordinance.

The map shall be identified by the signature of the Mayor, attested by the Town Clerk, and bearing the official seal of the Town of Calabash under the following words: "This is to certify that this is the official zoning map referred to in Article 9, Part II of the Unified Development Ordinance for the Town of Calabash, North Carolina." The date of adoption and subsequent amendments shall also be shown.

Section 9-3. Replacement of the Official Zoning Map

In the event that the official original zoning map becomes damaged, destroyed, lost, or difficult to interpret, the Board of Commissioners may, by ordinance, adopt a new official zoning map which shall be the same in every detail as the map it supersedes. The new map shall bear the seal of the Town under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted and referred to in Article 9, Part II of the Unified Development Ordinance for the Town of Calabash, North Carolina." The date of adoption of the new official zoning map shall also be shown.

Section 9-4. Maintenance of the Official Zoning Map

Upon notification by the Board of Commissioners that a zoning change has been made, the Town Administrator shall cause to be made the necessary changes on the official zoning map within 14 (fourteen) business days of notification. The Zoning Administrator shall be responsible for the maintenance and revision of the official zoning map after being notified by the Town Administrator.

NOTE: See Article 4 for Amendment Criteria.

PART III. APPLICATION OF GENERAL REGULATIONS

Section 9-5. Only One Main Building, One Main Use on Lot, and Orientation of a Building

In the R15, R8, R6, and MFH-II, every main building hereafter erected or altered shall be located on a separate lot, as defined in this Ordinance, and in no case shall there be more than one main building and permitted accessory building on the lot nor more than one main use per building and lot. This requirement shall not apply uses that are permitted in the Table of Permitted Uses within the same zoning district and located in the same building, nor to motels or manufactured home parks, nor to planned building groups approved by the Planning Board, nor to a bona fide farm use.

Section 9-6. Minimum Yards

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

Section 9-7. Lot Subdivision

No lot shall hereafter be so reduced in area as to cause any open space required by this Ordinance to be less in any dimension than is herein required by the minimum yard requirements of the zone in which the lot in question is situated.

Section 9-8. Improvements Bond

No final certificate of occupancy/compliance for a commercial, residential, or manufactured home park or planned building group will be issued until all required site improvements have been completed. In lieu of completion of required site improvements, the developer of the planned group may enter into a contract with the Town of Calabash providing for the installation of required improvements within a designated period of time. Performance of said contract shall be secured by cash, collateral, property, or issuance of an irrevocable letter of credit in a form that is satisfactory to the Board of Commissioners, which will cover the total estimated cost of the improvements as determined by the Town of Calabash; provided, however, that said bond may be waived by the Board of Commissioners within its discretion.

Section 9-9. Obstruction of Public Rights-of-Way

It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the Town any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground. In addition, it shall be unlawful for any person to take any action whatsoever within any public right-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with, or hinders lawful parking within any public right-of-way.

Section 9-10. Existing Encroachments on Rights-of-Way

In the event that the Town of Calabash code enforcement officer determines that there exists any fixed encroachment, obstacle, vegetation, or other condition within a public right-of-way which interferes with the free passage of persons or vehicles within said right-of-way, or which interferes with or hinders lawful parking within said right-of-way, or which otherwise creates a hazard to the public, said code enforcement officer shall attempt to identify the person(s) responsible for said obstacle or encroachment. Upon identification, the code enforcement officer shall notify in writing said responsible person(s) who shall have 14 (fourteen) business days from the date of notification to remove said encroachment or condition. In the event that the responsible party fails to remove said obstacle or encroachment within the time allowed, the Town shall promptly remove said obstacle or encroachment and shall charge the cost of said removal to the party responsible for said obstacle, encroachment, or condition. In the event that the code enforcement officer is not able to identify the responsible party, or if the condition or encroachment creates an imminent and immediate danger to the public, the Town may summarily remove said encroachment or other condition within the right-of-way without notice.

Section 9-11. Conditions for Used Manufactured Homes/Dwellings moved into Jurisdiction

Prior to moving any structure into the Calabash jurisdiction (whether municipal limits or ETJ) the owner/applicant must first obtain a zoning permit and a building permit from the Town

of Calabash. Additionally, for used dwellings, prior to moving any structures into the Calabash jurisdiction, the owner/applicant must provide evidence that a home inspection has been completed by a licensed home inspector.

In addition to the requirements by all federal and state codes and regulations, property owners shall meet the following requirements when relocating a used or existing structure into the Town's jurisdiction:

- (A) The roofing of the existing structure shall be evaluated by a professional roofing contractor to approximate the remaining life of the roof. If repairs are required to bring the roofing in compliance with current code, partial repairs may be provided the cost of such repairs does not exceed 40% of the cost for total replacement.
- (B) Soffit and overhangs shall meet the requirements for new construction in regards to ventilation. No damaged material or rotted wood shall be allowed. No gaps or other openings which would allow passage of large insects, rodents, or other pests shall be allowed. All penetrations shall be appropriately caulked. Surface shall be clean to the point where visual inspection is possible. No substantial mold or mildew growth shall be present.
- (C) Siding shall be free of damaged material or rotted wood. No gaps or other openings which would allow passage of large insects, rodents, or other pests shall be allowed. All penetrations shall be appropriately caulked. Surface shall be clean to the point where visual inspection is possible. No substantial mold or mildew growth shall be present.
- (D) Windows and doors shall be in complete operating order, particularly those required for egress. No broken glazing shall be allowed.
- (E) The overall condition of the home shall be of one that has been well maintained. No peeling paint, loose siding, etc., missing caulking, broken lighting or other damaged fixtures shall be allowed.
- (F) All building appliances (water heater, air handler, etc.), fixtures (toilets, tubs, lavatories, sinks, lighting, fans, etc.), and installed residential appliances (ovens, cooktops, etc.) must be in good working order.
- (G) The site must be properly sloped and have finish landscaping material. It must be free from demolition and construction debris. Unused construction material must be properly stored in accordance with other sections of this code.
- (H) Any areas repaired or replaced shall be in accordance with current Building Codes. Items affected such as wiring is subject to repair back to the point of origin or discharge as may be the cause for plumbing waste.
- (I) Depending on the situation(s), other professionals such as architects, engineers,

licensed contractors (all trades) may be required to perform evaluations of systems or existing work that may be in question.

Section 9-12. Variance consideration by the Board of Adjustment to allow carports in the front setback of the MFHII Zoning District subject to, but not limited to, the following requirements:

- (A) Carport shall be used for storage of transportation / motorized vehicles only and related accessories. Related accessories that are not on axels / wheels shall not be stored in carport and shall not be visible from the street. All non-vehicular storage shall be stored in accordance with other sections of this ordinance or the Town of Calabash Code of Ordinances.
- (B) Carport (footprint) must be located a minimum of 20' from the surface or curb of the serving road -or- a minimum of 5'-0" from front property line, whichever is more stringent, to allow potential parking of guest vehicle in front of carport. Carport may not be located in a manner which the carport obstructs vehicular site lines from adjoining roads or intersections.
- (C) Maximum width of carport shall not exceed 22' (footprint). Maximum overhang shall not exceed two-feet (2'-0").
- (D) Maximum opening height on sides of carport shall not exceed 8'-0". Maximum roof ridge height shall not exceed thirteen-feet and eight-inches (13'-8").
- (E) No walls, overhead doors, windows, screening, or doors of any kind may be applied to carport. No storage closets, shelving units, etc. may be constructed in carport.
- (F) In addition to the above requirements, the carport must meet all provisions of the current NC Residential Code.
- (G) Other exceptions unique to the site may be considered by the Board of Adjustment on a case-by-case basis.

ARTICLE 10. TABLE OF PERMITTED/SPECIAL USES

Section 10-1. Table of Permitted and Special Uses

Districts in which particular uses are permitted as a use-by-right are indicated by "P." Uses not specifically listed in the Table of Permitted Uses are prohibited.

Permitted use districts in which particular uses are permitted as a Special use upon approval of the Board of Commissioners are indicated by "S." See the Table of Regulations for Special Uses, Section 12-18, for details of each Special use.

Districts in which particular uses are permitted pursuant to a conditional zoning amendment are indicated by "CZ." Where these uses have specific standards detailed in this ordinance, those standards shall be considered but may be modified by the Board of Commissioners when fulfilling the purpose of a conditional rezoning as presented in Section 4-8(A).

Districts in which particular uses are prohibited are indicated by a blank. If a use is not specifically included in the Table of Permitted/Special Uses as a use-by-right or a Special use, it is considered unlisted. The uses listed may not address all possible uses. In determining if a use is permitted, the Administrator shall consider which category of expressed uses most closely matches the use proposed and apply the regulations pertaining to that category to the proposed use, which may be prohibited within the district in which it is located. In determining the use which most closely matches the proposed use, the Administrator shall consider the density and intensity of the use, and anticipated traffic, noise, light, and odor on adjacent properties. The Administrator may request evidence from the applicant regarding the density and intensity of the use. Such interpretation shall be provided in writing to the applicant and subject to appeal by the Board of Adjustment.

Minimum zoning district area (acreage) requirements are defined in Article 11, Table of Area, Yard, and Height Requirements.

Table of Permitted and Special Uses

PERMITTED USES	R-15	R-8	R-6	R/C	MFH-II	PUD*	O/I	CB	HC	AD	ID**	CD
ACCESSORY USES AND STRUCTURES (incidental to any permitted use, see Note 2)	P	P	P	P	P	P	P	P	P	P		
ADULT BUSINESSES											S	
ADULT DAY CARE FACILITIES				S		S	S	S	S	P		
AGRICULTURAL PROCESSING											P	
ANIMAL HOSPITALS				S				S	P			
ANIMAL HUSBANDRY SERVICES										P	P	
APPLIANCE DEALERS				P				P	P			
ASSISTED LIVING FACILITIES				S		S	S	S	S			
AUTOMOBILE PARTS AND ACCESSORIES (provided all storage is indoors)								P	P			
AUTOMOBILE REPAIR AND SERVICES								P	P		P	
AUTOMOBILE SALES LOTS									P			
AUTOMOBILE TIRE SALES AND SERVICE, INCLUDING TIRE RECAPPING									P		P	
AUTOMOBILE WASHING ESTABLISHMENTS									P			
BANKS AND OTHER FINANCIAL INSTITUTIONS				P		S	S	P	P			
BARBER OR BEAUTY SHOPS				P		S		P	P			
BARS/NIGHT CLUBS (see Note 9)								P	P			
BEACH BINGO FACILITIES (in accordance with Section 12-18 and NC General Statutes 14.309.14)								S	S			
BED AND BREAKFAST				P		S		P	P			
BOTTLING AND CANNING PLANTS											P	
BOWLING ALLEYS									P			
<u>BREWERIES, DISTILLERIES, & WINERIES (see Note 12)</u>								P	P		P	
BUILDING SUPPLIES SALES ESTABLISHMENTS									P			
BUS TERMINAL									P			
CAMPGROUNDS/RECREATIONAL VEHICLE PARKS (see Note 7)								CZ	P			
CEMETERIES, COMMERCIAL/PUBLIC (see Art. 12)							S		S	S	P	
CEMETERIES, FAMILY (see Note 10 & Art. 2-definitions)	P	P	P	P	P	P						
CHILDREN'S DAY CARE FACILITIES	S	S	S	S		S	S	S	S	S		
CHURCHES/PLACES OF WORSHIP	P	P	P	P	P	S	S	P	S	P		
CIVIC, SOCIAL, AND FRATERNAL ORGANIZATIONS				S		S	P	P	P			
COMMERCIAL VENDING UNITS								S	P			
CONTRACT CONSTRUCTION SERVICES									S		P	
CONVALESCENT, NURSING, AND REST HOMES				S		S	S	S	P	P		
CULTURAL, ENTERTAINMENT AND RECREATION NOT ELSEWHERE CLASSIFIED				CZ		CZ		CZ	CZ			

*Planned Unit Development District (see Article 15).

**See Note 1.

PERMITTED USES	R-15	R-8	R-6	R/C	MFH-II	PUD*	O/I	CB	HC	AD	ID**	CD
DAIRY BARS				P		S		P	P			
DENTAL OFFICES				P		S	P	P	P			
DIRECTIONAL MARKERS OR OFFICIAL SIGNS OF PUBLIC AGENCIES	P	P		P	P	P	P	P	P	P	P	P
DRUG STORES				P		S		P	P			
DWELLING, CONVENTIONAL ON-SITE STICK BUILT CONSTRUCTION (excluding manufactured homes)	P	P	P	P	P	P	P	P		P		
DWELLING, MULTI-FAMILY		CZ	CZ	CZ		CZ	CZ	CZ				
DWELLING, TWO FAMILY		CZ	CZ	CZ		CZ	CZ			CZ		
ELECTRICAL REPAIR SERVICES				S				S	P		P	
ELECTRONIC EQUIPMENT MANUFACTURING											P	
ENGINEERING OFFICES				P		S	P	P	P			
FARM EQUIPMENT SALES AND SERVICE									P			
FARM SUPPLY ESTABLISHMENTS, including the sale of feed, seed, fertilizer, and farm chemicals								P	P			
FARMERS MARKET				S				S	S	S		
FARMING, TRUCK GARDENING, NURSERIES, and accessory residential of a minimum of one acre but not including raising of poultry, pets, or livestock for commercial purposes on a scale that would be objectionable to surrounding permitted uses because of noise or odor				S				S	S	P		
FIRE STATIONS	S	S	S	P		P	P	P	P	P	P	P
FISHING, COMMERCIAL				P				P		P		P
FLORISTS				P		S		P	P			
FOOD STORES				S		S		P	P			
FUNERAL HOMES				S			S	S	P			
GASOLINE SERVICE STATIONS									P			
GENERAL BUSINESS OFFICES				P		S	P	P	P			
GIFT SHOPS				P		S		P	P			
GOLF DRIVING RANGES						S			P	P		
HARDWARE/PAINT STORES				P		S		P	P			
HOME OCCUPATIONS (see Note 2)	P	P	P	P	P	S	P	P	P	P		
GROUP HOME, CLASS A (See Note 3)	P	P	P	P	P	P	P	P		P		
GROUP HOME, CLASS B (See Note 3)	CZ	CZ	CZ	CZ	CZ	CZ	CZ			CZ		
GROUP HOME, CLASS C (See Note 3)							CZ		CZ	CZ		
INSURANCE OFFICES				P		S	P	P	P			
JEWELRY STORES				P		S	P	P	P			
LAUNDRY AND DRY CLEANING ESTABLISHMENTS (see Note 4)						S		P	P			

*Planned Unit Development District (see Article 15).

**See Note 1.

Article 10. Table of Uses

Page 10-3

Amended: 6/14/2011, 9/13/2011, 4/10/2012, 7/10/2012, 1/14/2014, 3/13/2014, 5/13/2014, 7/8/2014, 11/12/2014, 3/10/2015, 4/12/16, 4/11/17, 4/10/18, 9/08/2020, 10/12/2021, 1/12/2022, 8/9/2022, 4/11/2023, 11/12/2024, 12/10/2024, 01/14/2025, 03/11/2025

PERMITTED USES	R-15	R-8	R-6	R/C	MFH-II	PUD*	O/I	CB	HC	AD	ID**	CD
LAUNDRY, SANITATION, AND MANAGERIAL FACILITIES DESIGNED TO SERVE A MANUFACTURED HOME PARK					S							
LAW OFFICES				P		S	P	P	P			
EDUCATIONAL FACILITIES/OFFICES				P		S	P	P	P			
MANUFACTURED HOMES (on individual lots)				P	P			S				
MANUFACTURED HOME PARKS (see Section 14-2)					S							
MARINAS/DOCKS/PIERS, INCLUDING DRY STACK STORAGE FACILITIES (in accordance with Section 12-18 and not including docks/piers for residential use)				P		S		P	P			S
MIXED USE (see Note 5)				CZ		S		CZ	CZ			
MEDICAL OFFICES				P		S	P	P	P			
MINITURE GOLF COURSES				P		S		P	P			
MOTELS/HOTELS				S		S	S	P	P			
MULTI-UNIT ASSISTED HOUSING WITH SERVICES	S	S	S	CZ		S	S	CZ	P	P		
MUNICIPAL BUILDINGS				S		S	P	P	P			
OFFICES FOR GOVERNMENTAL AGENCIES AND CHARITABLE ORGANIZATIONS				P		S	P	P	P			
OFFICE SUPPLY STORES				P		S		P	P			
PARKING LOTS, OFF-SITE				P			S	P	P			
PARKS AND PLAYGROUNDS (including golf courses or golf and country clubs and tennis courts)	P	P	P	P	P	S	P	P	P	P		P
PET GROOMING (including dogs & cats)								P	P			
PET COSMETOLGY INSTRUCTION (including canine/feline)								P	P			
PLANNED RESIDENTIAL DEVELOPMENT	S	S	S	S	S							
PLANT NURSERIES/GREENHOUSES				S				S	P	P		
POLICE STATIONS WITH HOLDING FACILITIES				S		S		P	P			
PRINTING ESTABLISHMENTS				S		S	S	S	P		P	
PRIVATE DOCK, BOATHOUSE, AND OTHER WATER DEPENDENT USES	P	P	P	P	P	P	P	P	P	P	P	P
PUBLICLY OWNED AND/OR OPERATED PARK, DOCK, BOAT LANDING, OPEN SPACE, RECREATIONAL FACILITY, OR USE AND THE EQUIPMENT NECESSARY TO OPERATE SUCH AREAS	S	S	S	P	S	S		P	P			P
RADIO COMMUNICATION				S			S	S	P		P	
REAL ESTATE OFFICES				P			P	P	P			
RECREATIONAL VEHICLES (see Note 7)	P	P	P	P	P	P	P	P	P	P		
RECREATIONAL WATERCRAFT LIVERY BUSINESS (see Note 6)				S		S		S	S	S		
RESIDENTIAL CLUSTER DEVELOPMENT (see Article 13)	CZ	CZ	CZ		CZ	CZ						

*Planned Unit Development District (see Article 15).

**See Note 1.

Article 10. Table of Uses

Page 10-4

Amended: 6/14/2011, 9/13/2011, 4/10/2012, 7/10/2012, 1/14/2014, 3/13/2014, 5/13/2014, 7/8/2014, 11/12/2014, 3/10/2015, 4/12/16, 4/11/17, 4/10/18, 9/08/2020, 10/12/2021, 1/12/2022, 8/9/2022, 4/11/2023, 11/12/2024, 12/10/2024, 01/14/2025, 03/11/2025

PERMITTED USES	R-15	R-8	R-6	R/C	MFH-II	PUD*	O/I	CB	HC	AD	ID**	CD
RENTALS OF MOVING VANS/TRUCKS/TRAILERS SUCH AS U-HAUL/BUDGET/Ryder AND THE LIKE (if located in CB-subject to stipulations of Note 11)								P See Note 11	P			
REPAIR SHOPS (radio, television, electrical, small appliances, shoes, etc.)				S		S		P	P			
RESTAURANTS				P		S		P	P			
RESTAURANTS, DRIVE-THROUGH [see Art. 12-18(7)]				S		S		S	S			
RETAIL APPAREL AND ACCESSORIES				P		S		P	P			
RETAIL FURNITURE, HOME FURNISHINGS, AND EQUIPMENT				P		S		P	P			
RETAIL ESTABLISHMENTS primarily engaged in selling one or more of the following: beverages, cosmetics, fabrics, notions, stationary or books, magazines, newspapers (see Note 13)				P		S	S	P	P			
RETIREMENT/ELDERLY FACILITIES	S	S	S	CZ		S	S	CZ	S	P		
SCHOOLS, PUBLIC AND PAROCHIAL	P	P	P	P		S	P	S	S	P		
SHOE STORES				P		S		P	P			
SHOPPING CENTER (provided that the area in question contains not less than three acres)				P		S		P	P			
SPORTING GOODS STORE				P		S		P	P			
STORAGE (provided it is within a building and the use is not visible from outside the building)	P	P	P	P	P	P	P	P	P	P	P	P
STORAGE FACILITIES				CZ		S		CZ	S		P	
STORAGE UNITS				CZ				CZ	P		P	
TAILORS				P		S	P	P	P			
TAPROOM OF TASTING ROOM AS AN ACCESSORY USE (see Note 13)								P				
TATTOO/BODY PIERCINGS (see Note 14)								CZ	CZ			
TELECOMMUNICATION TOWERS				S		S	S	S	S	S	S	
TELEPHONE OFFICES				P		S	P	P	P			
TEMPORARY OFFICE UNITS	S	S	S	S	S	S	S	S	S	S	S	
TEMPORARY USES (see Note 10)	S	S	S	S	S	S	S	S	S	S	S	
TEXTILE MANUFACTURING											P	
THEATERS				S		S		S	P			
TOY STORES				P		S		P	P			
TRUCKING TERMINALS											P	
US POSTAL OFFICE				P		S	S	P	P		S	
WAREHOUSES, INCLUDING TOBACCO WAREHOUSES				CZ				CZ	P		P	
WHOLESALE BUSINESSES (businesses which sell to other merchants, not to the public) EXCLUDING PETROLEUM BULK STATIONS AND SCRAP AND WASTE MATERIAL				CZ				CZ	P			

*Planned Unit Development District (see Article 15).

**See Note 1.

KEY TO TABLE OF PERMITTED USES:
CZ = CONDITIONAL ZONING REQUIRED
S = SPECIAL USE
P = PERMITTED USE
Blank = PROHIBITED

*Planned Unit Development District (see Article 15).
**See Note 1.

Section 10-2. Notes to the Table of Permitted Uses

Note 1. Site Development and Operations Standards within the ID District.

- (A) Parking, access, and circulation lanes between the principal building and the street(s) shall be surfaced with blacktop, concrete or brick and/or approved equal material and shall be separated from required yards or open areas by continuous curbing or some other acceptable method (decorative fencing, hedge, planter, etc.) which will define and separate vehicular areas from required yards and pedestrian traffic.
- (B) Outdoor storage, display, operations, or service areas, when proposed in conjunction with a special use permit request, shall not encroach into any required yard unless specifically authorized under the terms of the special use permit.
- (C) It is recommended that in these districts, as much of each tract as possible be left in a natural state or with enhanced/improved vegetation.

Note 2. Accessory Uses or Structures.

A use or a structure on the same lot with, but of a nature customarily incidental and subordinate to the principal use or structure and which contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or use being served. No tent, mobile home, camper, travel trailer, nor any other temporary, portable, or removable trailer, container, vehicle, or structure of any kind may be considered an accessory use or accessory structure, whether or not the wheels, axles, and/or tongue have or has been removed and whether or not the container, structure, or vehicle as described herein has been placed on a foundation, except as hereinafter described. Provided, however, that structures such as storage sheds, garden sheds, and similar structures shall be considered accessory buildings, even though they may be capable of being lifted or disassembled and removed from the property. Further provided, that a trailer, tent, or similar container, structure, or vehicle may be placed on property on a temporary basis for promotional or other business or charitable related purposes, but such use shall not continue for more than six months.

No accessory building or use shall, except for attached garages, primarily ornamental structures (e.g. gazebos and the like), or carports in the MFH-II Zoning District (upon a variance granted in accordance with Section 9-12) be erected in front (street side) of the primary building or within five feet of any rear or side property line or other existing structure. No accessory building or use may be erected or installed on any lot where a principal building does not exist. Aggregate square footage of all accessory buildings on a parcel shall not exceed 100% of the square footage of the primary structure and must also comply with Article 11, Section 11-1 of the UDO. Accessory building numbers limitation on property are exempt if the property is identified as having farm tax

identification number. The side and rear setbacks for farm property shall be the same as other accessory buildings.

- (A) Home Occupations. Home occupations are permitted only as an accessory use and shall be subject to the following limitations:
- (1) No display of products shall be visible from the street.
 - (2) No mechanical equipment shall be installed or used except such that is normally used for domestic, professional, or hobby purposes and which does not cause noise or other interference in radio and television reception.
 - (3) Not over 25% of the total actual floor area or 500 square feet, whichever is less, shall be used for a home occupation.
 - (4) No more than one person not residing in the dwelling may be engaged in the home occupation; and
 - (5) Traffic generation shall not exceed the traffic volumes generated by nearby residents. Off-street parking shall be provided as required in Article 17.
- (B) Swimming Pools. All public, commercial, or private outdoor swimming pools of three feet or more in depth, either above ground or below ground, and of either permanent or temporary construction shall meet the following requirements in addition to setbacks and other requirements specified elsewhere:
- (1) That the setback for an above ground swimming pool from any lot line equals the required setback for accessory structures in the district in which it is located plus one foot for each foot over five in pool height.
 - (2) All swimming pools must comply with North Carolina State Building Code requirements.
 - (3) That all mechanical equipment be located a minimum of five feet from any property line and must be screened from view.
- (C) Dwellings as Accessory Uses. Dwellings may be accessory uses if detached as a garage apartment and only if used as a residence by household servants or relatives. Mobile homes shall not be used as accessory residences in any residential district. Dwellings may be accessory uses in the CB Central Business District if located inside the principal building.
- (D) Retail Sales and Services as Accessory Uses. Retail sales and services are permitted as accessory uses when clearly incidental to the principal use. With the exception of restaurants in conjunction with a motel, such uses shall be conducted wholly within the principal building, without access thereto other than from

within the building, and without exterior advertising or display. These activities shall be conducted solely for the convenience of the employees, patients, patrons, students, or visitors. In hospitals and clinics, these accessory uses may include drug stores, florists, gift and book shops, and cafeterias. In institutional settings, office buildings, hotels, country club houses, and airports, such activities may include gift and book shops, restaurants, cafeterias and coffee shops, lounges, pro shops, and beauty and barber shops.

(E) Fences and Walls.

- (1) Permits. A zoning permit shall be obtained for all fences prior to construction, erection, or installation. In addition to the permit application, a copy of a survey or comparable site drawing showing the proposed location of the fence with respect to existing property lines, the existing structure(s) and streets may be required.

Fences, hedges and retaining walls shall be permitted in all residential and non-residential districts as set forth herein. Fences, walls or wall-like structures including retaining walls shall be considered as accessory to a principal permitted use.

- (2) General Regulations for Fences and Walls. No fence, wall or wall-like structure shall be constructed, erected or placed within a required sight triangle. These dimensions shall be measured to the center line of a fence, the outer face of a wall, or the extreme horizontal projection or maintained trim line of the plants on the street side. In no case shall a fence be located closer than 10 feet to a curb line or to the edge of paved roadway and shall not be in the public right-of-way.

A fence height shall be determined by measuring from the lowest point of any original or natural grade of the undisturbed ground under the fence. Any fill material or berm that raises the height of the fence above the original or natural grade shall be considered a part of the fence.

Fences shall be constructed in such a manner that the dressed or finished side of such fence, where applicable, shall face the adjacent property or the public right-of-way and all fence supports shall be on the interior of the fence and property. (Note: shadowbox type fence: the dressed side of the fence material shall face the adjacent property or public right-of-way and shall be of the same texture, material, and color.)

No fence shall be constructed with barbed wire, metal spikes, electrified conductors, or other such dangerous material. The exception to the use of barbed wire shall be businesses or industries that are engaged in activities that could be potentially dangerous to the public.

Translucent, transparent, clear plastic or similar materials shall not be permitted. Construction fences shall not be used on a permanent basis.

Decorative fence elements, such as 1 or 2 sections of split rail fences up to 4 feet in height used as part of a general landscaping or decorative plan shall be exempt from the provisions of this paragraph, except that such decorative elements shall not be installed or erected within the sight triangle.

- (3) Maximum Height and Location. For purposes of this section the side yard shall start at the front corner of the primary structure. On corner lots, any side of the property facing any street shall be treated as a front yard and maximum fence height on the side beyond the (side) plane of the house shall be four feet. On triangular (3 sided lots) with two street frontages the following will apply: The front of the house will determine the front plane. The rear of the house will be allowed to have a 6 foot fence which cannot project past the front of a neighboring adjacent house or past the front setback line of a neighboring adjacent undeveloped lot.” *(Modified 2/11/2020*)*
- (a) Residential Fences: for individual properties whose primary use is residential despite the zoning district in which the property is located. Residential use in the R-6, R-8, R-15, MFH-II, CB, HC, R/C, AD, CD and PUD and any other district where primary use of the subject property is residential. Maximum height of residential fences: front yard four (4) feet; side yard six (6) feet; rear yard six (6) feet.
- (i) Neighborhood Perimeter Fences: privacy fences for single-family, multifamily or mixed use subdivisions/neighborhoods may be allowed provided the following requirements are met:
- The fence shall extend along and be set back at least three (3) feet from the boundary of the subdivision
 - The fence shall not exceed eight (8) feet in height
 - Both sides of the fence shall be equal in construction and appearance. The fence shall be uniform in design on all perimeters of the property. Design and construction shall be approved by the Inspections department prior to permit and construction.
 - Maintenance responsibility for the fence with easement rights shall be specified in the deed covenants of the subdivision.
- (b) Commercial fences in the CB, HC, O/I, and R/C zoning districts (for properties whose primary use is commercial): Maximum height of commercial fences: front yard four (4) feet; side yard eight (8) feet; rear yard eight (8) feet.

- (c) Industrial fences: fences in the ID zoning district may be a maximum of 10 feet on all sides.
 - (d) Agricultural/Conservation: the height fences in the Agricultural and Conservation zoning districts, for purposes other than residences in these districts, shall be determine by the Zoning Administrator based upon the purpose of the fence and consideration of adjacent properties. However, in no case shall a fence be permitted to exceed a maximum height of ten (10) feet.
 - (e) Public Utilities: public utilities in any zoning district are exempt from the aforementioned provisions. Public utilities may have up to an eight (8) foot high chain-link fence with barbed wire.
- (4) Swimming Pool/Spa and Hot Tub Fences. An outdoor pool, including in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier and shall comply all relevant instructions as outlined in Appendix G, NC State Building Code.
 - (5) Tennis Courts. Fences up to 10 feet, as required around a tennis court shall meet the minimum side and rear yard requirements for an accessory building.
 - (6) Hedges and Other Landscaping. Hedges and other landscaping planted as a wall-like structure shall not be placed within the public right-of-way. Any brush, hedges, shrubbery or other plant life growing within the sight triangle shall be cut and maintained to a height of not more than 30 inches above the established grade of the street. Such vegetation shall not overhang the curb or the edge of the pavement. Any tree or shrubbery within the triangular area above must be either less than 30 inches in height, or, if in excess of that height, no branches shall be nearer than 8 feet to the ground.

Hedges, etc. used as access control to abrupt ground height changes (similar to guardrails), shall be maintained or a permanent fence of 48" in height shall be installed.
 - (7) Fences and Vegetation as Buffers. In situations where no other practical means are available the addition of a 6 foot fence and 5 feet of vegetation buffer may be used in lieu of the required 15 foot vegetative buffer strip as determined by the Administrator or designee.
 - (8) Maintenance. The owner, tenant, or person responsible for any parcel of land on which a fence or hedge is located shall be responsible for the continuous maintenance of the fence or hedge. Fences shall be erected in a manner so as to permit the flow of natural drainage and shall not cause surface water to be blocked or dammed.

Note 3. Group Homes.

(A) Qualifications

In addition to the definitions in this Ordinance, the group home must conform to one or more of the following.

- (1) Licensed by the federal or state government.
- (2) Funded, at least in part, by governmental grant or loans.
- (3) Provide room and board, personal care, and/or habilitation services in a family environment.

(B) General standards

- (1) All new construction and proposed facade changes shall maintain a residential character compatible with the surrounding neighborhood in terms of height, scale, roof pitch, setback, building materials, building orientation, and fenestration. All new construction shall have a residential appearance that is consistent with that of the existing block face.
- (2) Adequate supervision shall be provided in accordance with any licensing requirements.

(C) Separation Requirements

- (1) A group home shall be separated at least one-half mile from any existing permitted group home.
- (2) The board of adjustment may grant a variance from the separation requirement if shown to be a reasonable accommodation under the Fair Housing Act.

(D) Violations

In addition to any other remedies permitted by law, more than three final determinations of violations of the Town of Calabash Code of Ordinances as determined by the Administrator or designee or criminal convictions related to the premises within one month, or six within one year, shall constitute inadequate supervision and a violation of the permit and the use shall be deemed terminated by the operator. Offenders shall include property owners, tenants, guests, or any individual otherwise related directly to the property.

Note 4. Laundry and Dry Cleaning Establishments.

Such establishments shall be permitted when only oil, gas, or electricity is used for heat. Screening and filtering devices shall be used to prevent the emission of smoke, dust, fumes, odors, or steam into the atmosphere.

Note 5. Mixed Use.

Mixed uses are permitted as Special uses in the CB, H/C, PUD, and R/C districts.

- (A) Allowed Uses. All uses permitted in the R-15, R-8, R-6, and CB districts shall be permitted.
- (B) Principal Use. The principal use shall occupy 51% of all enclosed floor area.

Note 6. Recreational Watercraft Livery Business.

Including jet skis, boats, parasailing, and/or similar motorized rentals.

- (A) Livery Watercraft business shall be limited to no more than one business per waterfront parcel.
- (B) All buildings/structures to house such watercraft livery business area shall be permanent construction.

Note 7. Recreational Vehicles/Temporary Use.

Recreational vehicles occupied for human habitation and intended for permanent residential use must be placed in an approved manufactured home or recreational vehicle park. However, temporary residential use may occur in cases where the recreational vehicle is secondary to a primary residential use, and when construction or repair of a single-family home occurs. Two general restrictions for either temporary residential use shall apply, as well as specific restrictions and limitations for each. The general restrictions and limitations are as follows: (1) R-15, R-8, R-6, MFH-II, PUD, RC, CB, or O/I zoning is required; (2) Location of the recreational vehicle shall be in the rear yard, unless evidence can be provided to the Administrator that size constraints or other factors prevent rear yard location. The specific restrictions and limitations are as follows: (1) When secondary to a primary residential use, the period of human habitation shall not exceed 14 days, and may not be re-established for a period of 90 days from the last day terminated; (2) When construction or repair of a single-family home occurs, the homeowner and his family may occupy a recreational vehicle for a period of 180 days. An extension of 180 days may be granted by the Administrator upon presentation of evidence that construction cannot be completed within 180 days due to factors beyond their control.

All recreational vehicles shall maintain an adequate disposal system and a source of potable water. Emptying of wastewater disposal systems shall be done in accordance with Section 15-3. Recreational vehicles may be stored on lots in any district, provided that such storage is not relating to manufactured home/recreational vehicle sales and further provided that such storage is not upon the right-of-way of any public street or public land.

Note 8. Temporary Uses.

- (A) Mobile Offices. Mobile offices may be used on a temporary basis for such purposes as construction offices, blood mobiles, book mobiles, and traveling museums. However, such mobile uses must obtain a temporary occupancy permit from the Administrator if the use is to last more than 48 hours at one site. Mobile offices may also be used for other office or business purposes in cases where the permanent structure has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained before the use of the mobile office is initiated. This occupancy permit shall be valid for a specified period of time while reconstruction takes place not to exceed six months and may be renewed no more than once.
- (B) Manufactured Homes. Temporary use of a manufactured home as a residence shall be permitted in any residential district in cases where the permanent home has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained from the Administrator before the use of the manufactured home is initiated. This occupancy permit shall be valid for a specified period of time not to exceed six months while reconstruction takes place and may be renewed no more than once.

Note 9. Bars/Night Clubs.

The Zoning Administrator may approve a zoning permit for a bar/night club (as defined in Article 2) in the CB and HC districts as long as the bar /night club establishment can meet the following minimum requirements:

- (A) The bar/night club must meet all requirements established in the NC General Statutes, Chapter 18 B, the regulation of alcoholic beverages;
- (B) No bar/night club shall be located within 1,000 feet of a church, school, or dwelling (measured in a straight line from the closest edge of each property line);
- (C) The bar/night club must be able to meet the minimum parking requirements set forth in Article 17;
- (D) The bar/night club establishment must conform to all local laws, regulations and ordinances pertaining to but not limited to noise, health, safety, nuisances, etc.

- (E) If the bar/night club establishment wishes to utilize outdoor space on site for bar/night club activities, such as seating, games, etc., the outdoor space must conform to all applicable laws, regulations and ordinances pertaining to but not limited to: alcoholic beverage consumption, noise, health, safety, nuisances, etc.

Note 10. Family Cemeteries.

Private family cemeteries shall have a minimum 20-foot right-of-way to a DOT maintained road. They shall be setback a minimum of 50 feet from any property line. They are also required to be surveyed with the survey being recorded in the Brunswick County Register of Deeds office. Further, private or family cemeteries shall meet any applicable state regulations.

Note 11. Rentals of Moving Vans/Trucks/Trailers.

For businesses located in the Central Business (CB) Zoning District the following minimum standards must be met before a zoning permit will be issued:

- (A) This type of business may only be allowed as an accessory use to gas stations, automotive repair and sales, lawn and garden sales and repair, storage facility or any other type of similar use.
- (B) This accessory use is only permitted on the rear of the property.
- (C) The accessory use must be fenced-in
- (D) There should be no more than four (4) box trucks (six wheels and more) allowed to be stored on the property at any time.
- (E) Signage must meet the current signage requirements contained in Article 18 of the UDO (i.e. no additional signage will be granted if the primary business is already at it's maximum signage capacity). No trucks/vans/trailers or any similar devices shall be permitted to be parked at the front of the primary business property to be used as advertising or signage.

Note 12. Breweries, Distilleries, and Wineries.

The following regulations shall apply to all Brewery, Distilleries and Winery Uses as described in UDO Article 2 and governed by Chapter 18B of the North Carolina General Statutes:

- (A) Uses within the ID Light Industrial District:

- (1) Uses shall not produce odors, gas, dust or any other pollutants detrimental to the health, safety or general welfare of persons living or working in the surrounding properties; and
 - (2) Hours of operation shall not begin before 7:00 A.M. and shall not extend beyond 10:00 P.M.; and
 - (3) Parking requirements shall be calculated in accordance with Article 17 Off Street Parking and Loading. Parking ratios under the ID Light Industrial shall apply for the manufacturing and production category of the use, and for food service or taproom or tasting room, the parking ratio shall be calculated under the Restaurant use category and shall ensure vehicular access, parking and circulation areas that are designed to minimize conflicts with the access, parking, and circulation for other adjacent industrial areas; and
 - (4) Outdoor storage shall be enclosed and shall be located at the rear of the establishment; and
 - (5) Outdoor activities, such as live or recorded music, shall not be audible from any occupied residential home and/or from within the enclosed building of any adjacent business establishment; and
 - (6) Uses shall comply with all applicable Federal, State, and County regulations.
- (B) Uses within Commercial Zoning Districts (CB-Central Business and HC Highway Commercial):
- (1) Shall include at least one of the following associated uses: restaurant, taproom or tasting room; and
 - (2) Uses shall not produce odors, gas, dust or any other pollutants detrimental to the health, safety or general welfare of persons living or working in the surrounding properties; and
 - (3) Hours of operation shall not begin before 7:00 A.M. and shall not extend beyond 10:00 P.M.; and
 - (4) Parking requirements shall be calculated in accordance with Article 17 Off Street Parking and Loading. Parking ratios under the ID Light Industrial

shall apply for the manufacturing and production category of the use, and for food service or taproom or tasting room, the parking ratio shall be calculated under the Restaurant use category and shall ensure vehicular access, parking and circulation areas that are designed to minimize conflicts with the access, parking, and circulation for other adjacent industrial areas; and

- (5) Outdoor storage shall be enclosed and shall be located at the rear of the establishment, loading areas shall be located to the side or rear of the establishment. Outdoor loading or distribution activities between the hours of 10 PM and 7 AM shall be prohibited; and
- (6) Outdoor activities, such as live or recorded music, shall not be audible from any occupied residential home and/or from within the enclosed building of any adjacent business establishment;
- (7) Uses shall comply with all applicable Federal, State, and County regulations.

Note 13. Taproom or Tasting Room as an Accessory Use.

The following regulations shall apply to a taproom or tasting room as an accessory use to a retail establishment:

- (1) Taprooms or Tasting Rooms shall not exceed 50% of the total floor area of the retail establishment.
- (2) Parking requirements for Taprooms or Tasting Rooms shall be calculated utilizing restaurant standards (while the rest of the retail space shall be calculated utilizing retail standards).
- (3) Outdoor activities, such as live or recorded music, shall not violate the Town's noise ordinance.
- (4) Uses shall comply with all applicable Federal, State and Local Regulations.

Note 14. Tattoo and Body Piercing Businesses.

The following minimum requirements to be considered when deliberating Conditional Zoning applications for businesses engaged in tattoo/body piercings:

- (1) Owners/employees/patrons must be 18 years or older.

- (2) Must be 1500 feet from a church, daycare, school, public park.
- (3) Must be 1500 feet from other tattoo/body piercing shops.
- (4) Must only operate between 8:00 A.M. and 7:00 P.M.
- (5) Must meet all federal, state, and local laws/requirements (including permits from the Health Department).
- (6) No body piercing business as a standalone shop.
- (7) Must be a minimum of 1500 feet from any ABC Store.
- (8) Lighting and signage, including the size of signs, must be non-intrusive and reviewed and approved by the Town Board as part of the conditional zoning process.
- (9) Only one tattoo business shall be permitted to operate at the location.
- (10) The business shall comply with all other Town ordinances and shall not engage in excessive noise nor shall there be any loitering at the business location.

ARTICLE 11. TABLE OF AREA, YARD, AND HEIGHT REQUIREMENTS

(See Notes 1 through 12)

DISTRICT		MINIMUM LOT SIZE		MINIMUM YARD REQUIREMENTS			Maximum Building Height (Feet)****
		Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Front (Feet)	Each Side (Feet)	Rear (Feet)	
R-15	Residential District	15,000	75	35	15	30	35
R-8	Residential District	8,000 for the first dwelling unit, 4,000 for each additional dwelling unit (calculated per lot, not per building)	70	30	12	27	35
R-6	Residential District	6,000	60	25	10	25	35
R/C	Residential/Commercial District	6,000	60	25	10	25	35
MFH-II	Manufactured Home District II***	6,000	60	25	10	25	35
PUD	Planned Unit Development	(Determined by zoning district designations on approved PUD plan)					
O/I	Office and Institutional District	None	60	25	10	25	35
CB	Central Business District	None	50	35	10*	10*	35
HC	Highway Commercial District	None	75	35	10**	10**	35
AD	Agricultural District						35
ID	Industrial District	None	100	35	15*	15*	35
CD	Conservation District	None		100	100	100	35

* Except where a lot abuts a lot zoned residential. Lots abutting a lot zoned residential shall have at least a 25 foot side or rear yard.

** Except where a lot abuts a residentially zoned lot. Lots abutting a residentially zoned lot shall have at least a 25 foot side or rear yard. On corner lots, the side yards fronting on the side street shall be ½ the required front yard.

*** Manufactured homes located in 130 mph wind zones shall have brick or equivalent masonry underpinning.

**** Refer to definition Building Height in Article 2.

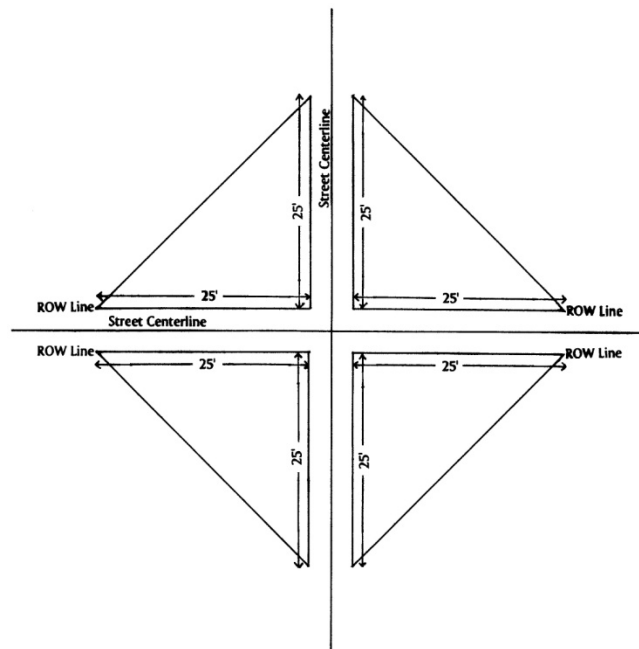
Section 11-1. Notes to the Table of Area, Yard, and Height Requirements

Note 1. Location of Accessory Building.

Accessory buildings may occupy 10% of the gross lot area, and must be built a minimum of 5 (five) feet from any lot line.

Note 2. Corner Lots.

- (A) On corner lots, the side yard on that side of the lot abutting the side street shall not be less than one-half the front yard setback requirement on that side street.
- (B) Accessory buildings on corner lots located on that side of the lot abutting the side street shall not project beyond the full front yard requirement on that side street.



Note 3.

All buildings in the Central Business and Highway Commercial Districts shall be permanent fully enclosed construction. Portable, open air, shed type structures shall be prohibited, except as accessory buildings.

Note 4. Exceptions and Modifications.

The dimensional requirements of this Ordinance shall be complied with in all respects except that, under the specific conditions as outlined in this Ordinance, the requirements may be waived or modified as stated; and, in addition, the dimensional requirements may be changed or modified by the Board of Adjustment.

Note 5. Front Yard Modifications in Residential Districts.

- (A) Where 50% or more of the lots in any block or within 600 feet on both sides of the proposed structure, whichever is less, is composed of lots which have been developed with buildings whose front, side, or rear yards are less than the minimum required as specified in the dimensional requirements, the required front, side or rear yard shall be the average depth of front, side or rear yards of the developed lots, or the minimum dimensional requirements as specified in the Table of Area, Yard, and Height Requirements, whichever is less. Provided further that if any lot lies between two buildings which are less than 100 feet apart, the required front and/or rear yards for such lot shall be no greater than the average front and/or rear yard of the two adjoining lots or 25 feet, whichever is more.
- (B) When 50% or more of the lots in any block or within 600 feet on both sides of the proposed structure, whichever is less, is composed of lots with buildings that have front yards greater than the minimum required front yard, as specified in the Table of Area, Yard, and Height Requirements, the required front yard shall be the average depth of front yards on the developed lots. Provided further that if any lot lies between two buildings which are less than 100 feet apart, the required front yard for such lot shall be no less than the average front yard of the two adjoining lots.

Note 6. Other Yard Modifications.

Where through lots occur, the required front yard shall be provided on both streets. Architectural features such as open or enclosed fire escapes, steps, outside stairways, balconies and similar features, and uncovered porches may not project more than four feet into any required yard. Sills, cornices, eaves, gutters, buttresses, ornamental features, and similar items may not project into any required yard more than 30 inches.

- (A) Relief From Zoning Set Back Requirements: Property owners wishing to construct new structures or additions on their property may seek relief from building setbacks based on one of the following:
 - (1) The irregular shape of the parcel (i.e., pie shaped lots) makes conformance with all the building setbacks impractical to design or build a new home equal to 20% of the gross parcel area.
 - (2) The location of a new septic field (as required by the County Health Department) on the property prevents conformance as noted in Item 1 above.
 - (3) The location of an unchanged existing septic field (as previously approved by the County Health Department) on the property prevents conformance as noted in Item 1 above.

- (4) Alterations to an existing septic field as required by the County Health Department for the purpose of new construction.
 - (5) Nonconforming parcels of records.
- (B) The Following remedies to the above situations may be approved by the Zoning Administrator or his designee without requiring approval of the Board of Adjustment is as follows:
- (1) For corner parcels, the Zoning Administrator may designate which property boundary line shall be the front regardless of the street address of the property. (see diagram #1/#5 in Attachment #1)
 - (2) At corner properties, in order to align the front faces of the home with adjoining structures, the Zoning Administrator may assign two front setbacks and two side setbacks in lieu of the front setback, side street setback, rear setback and side (adjoining) setback.(see diagram #2 in Attachment #1)
 - (3) A two-foot (2') uniform building encroachment may occur in any two setbacks for an existing structure provided that it does not exceed 50% of that building setback face, that all other building setbacks are in compliance, and this allowance does not exceed buildable area for this parcel. In lieu of the uniform encroachment, a varying encroachment (i.e., multiple building corner projections into setbacks due to an irregularly shaped parcel) of 25% may occur in any two setbacks provided that the aggregate length does not exceed 50% of that building setback face, that all other building setbacks are in compliance, and this allowance does not exceed buildable area for this parcel.(see diagram #3 in Attachment 2)
 - (4) At cul-de-sac parcels, residential vehicle garages may reduce the front setback to ten-feet (10') provided that a minimum twenty-foot long (20') car parking area is available outside the garage door and this allowance will not exceed buildable area for this parcel.(see diagram #4 in attachment #3)
 - (5) Stair and ramp landings (covered or uncovered) not exceeding thirty-six (36) square feet or six-feet (6') in any length exclusive of the stairs and ramp for the purpose of egress to a home. (see diagram #1/#5 in Attachment #1)
 - (6) Mechanical equipment, such as air condensers, which are not enclosed may encroach up to four-feet (4') into side and rear setbacks provided that a minimum three-foot (3') travel path is available between the unit and the property line. (see diagram #6 in Attachment #4)
 - (7) Mechanical equipment yards may encroach up to seven-feet (7') into side and rear setbacks provided that a three-foot (3') clear travel is available

through this area either by two gates allowing access through this enclosure or by a three-foot (3') travel path around the enclosure. (see diagram #7 in Attachment #4)

- (8) Natural or man-made occurring barriers of a permanent nature (i.e. waterways, alley streets, required subdivision planting buffers, etc.) adjoining parcels seeking relief may be granted an additional 10% of setback encroachment in addition to 25% encroachment noted above.
- (9) Height of patios, ground decks, etc. which are twelve-inches (12") or less in height at all points may encroach up to 75% into any setback, except the front setback, without restriction.

Prior to approving any relief of setbacks based upon the aforementioned, the Administrator or his Agent shall notify adjacent property owners who shall have 14 calendar in which to provide comment on the proposed relief before a final decision is rendered.

Note 7. Height Limit Exceptions.

Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, monuments, cupolas, domes, antennas, and similar structures and necessary mechanical appurtenances are not subject to the height limit regulations contained in this Ordinance.

Note 8. Retaining Walls.

The setback and yard requirements of this Ordinance shall not apply to a retaining wall not more than three feet high, as measured from the lowest ground elevation to the top of the wall. A retaining wall greater than three feet in height will require a building permit.

Note 9. Lot Size Without All Public Utilities.

All lots not served by public or community sewer and/or water shall meet the minimum lot size requirements established by the Brunswick County Health Department.

Note 10. Zero Lot Lines.

Any planned residential development may make use of the zero lot line concept. Such a planned development is a subdivision and must be approved as such through the requirements of any subdivision regulations in effect as well as meeting the requirements of the zoning code.

Note 11. Driveways and Curb Cuts.

No portion of any residential driveway intersection with a Town public street shall be closer than 40 feet to the corner of any intersection, measured along the right-of-way line,

without approval of the Planning and Zoning Board. In commercial and industrial zones, this distance shall be 30 feet. The width of any driveway intersection with the public street shall not exceed 30 feet at its intersection with curb and street line. Driveway connections to the State of North Carolina Department of Transportation controlled streets must be requested from and approved by the Department of Transportation on its standard form. Driveways that have double lane ingress and egress (4-lanes) shall be a minimum 60 feet width at intersection with curb and street line. Construction of curb cuts for purposes of ingress and egress to property abutting a Town public right-of-way shall be approved by the Administrator. The North Carolina Department of Transportation is the approval authority where said curbs affect access to State Highways. Provision for all access work done on state highway right-of-way is subject to approval by the Department of Transportation.

Note 12. Conditional Zoning Amendments.

Conditional zoning amendments approved pursuant to Section 4.8 of the Town of Calabash Unified Development Ordinance may contain custom dimensional standards as approved by the Board of Commissioners.

ARTICLE 12. ZONING AND SPECIAL USE PERMIT APPROVAL

Section 12-1. Permits Required

- (A) Subject to Article 18 (Regulations for Signs), the use made of property may not be substantially changed, substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:
 - (1) A zoning permit issued by the Administrator.
 - (2) A special-use permit issued by the Board of Commissioners.
 - (3) Floodplain development permit.
- (B) Zoning permits, special-use permits, and sign permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in Section 12-13, all development shall occur strictly in accordance with such approved plans and applications.
- (C) Physical improvements to land to be subdivided may not be commenced except in accordance with a special-use permit issued by the Board of Commissioners.
- (D) A zoning permit, special-use permit, or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal and shall be accompanied by a signed affidavit designating such agent), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.
- (E) All development approvals issued in accordance with this Ordinance shall be issued in writing. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.

Section 12-2. No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled

Issuance of a special-use or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter building or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Section 12-10, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this

Ordinance and all additional requirements imposed pursuant to the issuance of a special-use permit have been complied subject to Section 12-8.

Section 12-3. Who May Submit Permit Applications

- (A) Applications for zoning, special-use, or sign permits or subdivision plat approval will be accepted only by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
- (B) The Administrator may require an applicant to submit evidence of his authority to submit the application in accordance with Subsection (A) whenever there appears to be a reasonable basis for questioning this authority.

Section 12-4. Applications To Be Complete

- (A) All applications for zoning, special-use, or sign permits must be completed before the permit-issuing authority is required to consider the application.
- (B) An application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.
- (C) The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this Ordinance, such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

Section 12-5. Staff Consultation After Application Submitted

- (A) Upon receipt of a formal application for a zoning or special-use permit, or subdivision plat approval, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this Ordinance, that he has

submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

- (B) If an application is for a special-use permit or subdivision plat approval, the administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

Section 12-6. Zoning Permits

- (A) A completed application form for a zoning permit shall be submitted to the administrator by filing a copy of the application with the administrator in the planning department.
- (B) The administrator shall issue the zoning permit unless he finds, after reviewing the application, that:
 - (1) The requested permit is not within his jurisdiction according to the Table of Permissible Uses, or
 - (2) The application is incomplete, or
 - (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance (not including those requirements when a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article 8, Nonconforming Situations).
- (C) Prior to the issuance of a zoning permit for commercially used or zoned property, a Town of Calabash Business Privilege License must be applied for properties located within the corporate limits.

Section 12-7. Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit

In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the administrator to ensure that all of the requirements of the Ordinance will be fulfilled within a reasonable period (not to exceed 24 months) determined by the administrator.

Section 12-8. Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special-Use Permits

- (A) In cases when, because of weather conditions or other factors beyond the control of the special-use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Article before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the permit-issuing board may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this section are concerned) if the permit recipient provides a performance bond or other security satisfactory to the board to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 24 months).
- (B) With respect to subdivisions in which the developer is selling only undeveloped lots, the Board may authorize final plat approval and the sale of lots before all the requirements of this Article are fulfilled if the subdivider provides cash or other security satisfactory to the Board to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval.

Section 12-9. Completing Developments in Phases

- (A) If a development is constructed in phases or stages in accordance with this section, then, subject to Subsection (C), the provisions of Section 12-2 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 12-10 (exceptions to Section 12-2) shall apply to each phase as if it were the entire development.
- (B) As a prerequisite to taking advantage of the provisions of Subsection (A), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Article that will be satisfied with respect to each phase or stage.
- (C) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:
 - (1) If the improvement is one required by this Article then the developer may utilize the provisions of Section 12-9(A) or (C).

- (2) If the improvement is an amenity provided in response to a condition imposed by the Board, then the developer may utilize the provisions of Section 12-9(B).

Section 12-10. Expiration of Permits

- (A) Zoning and sign permits shall expire automatically, if within 12 months, and special-use permits shall expire automatically, if within 24 (twenty four) months, after the issuance of such permits, the use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use.
- (B) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 12-11.

Section 12-11. Effect of Permit on Successors and Assigns

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

- (A) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and;
- (B) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit is obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property. Uses for or in connection with purposes other than those for which the original permit was originally issued shall require issuance of a new permit.

Section 12-12. Amendments to and Modifications of Permits

- (A) Insignificant deviations from the permit (including approved plans) issued by the Board of Commissioners, the Board of Adjustment, or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernable impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (B) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission

may be obtained without a formal application, hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

- (C) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Commissioners or Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
- (D) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections (A), (B), and (C).
- (E) A developer requesting approval of changes shall submit a written request for such approval to the administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

Section 12-13. Reconsideration of Commissioners/Board Action

- (A) Whenever (i) the Board of Commissioners disapproves a special-use permit application, or (ii) the Board of Adjustment disapproves an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:
 - (1) Circumstances affecting the property that is the subject of the application have substantially changed, or
 - (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the administrator within the time period for an appeal to superior court (see Section 7-6). However, such a request does not extend the period within which an appeal must be taken.
- (B) Notwithstanding Subsection (A), the Board of Commissioners or Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

Section 12-14. Applications to be Processed Expeditiously

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the Town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this Ordinance.

Section 12-15. Maintenance of Common Areas, Improvements, and Facilities

The recipient of any zoning or special-use permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority or POA. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Section 12-16. Special Use Permits Objectives and Purpose

Special uses add flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where those uses would not otherwise be applicable. By means of controls exercised through the special use permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties. Approval of a special use permit is made the duty of the Board of Commissioners subject to recommendations of the Planning Board.

The uses for which special use permits are required are listed in the chart accompanying this section, along with a detailed description of the procedures which must be followed in the approval of each such permit. Uses specified in this section shall be permitted only upon the issuance of a special use permit.

Section 12-17. Procedure for Special Use Permit Granted by the Board of Commissioners on Recommendation of the Planning Board

Special use permits may be issued by the Administrator, after approval by the Board of Commissioners, for the uses as designated in the table of regulations for special uses and after Planning Board review and recommendations. The petition for a special use permit and the accompanying plans (12 sets) shall be submitted to the Administrator at least three weeks prior to the regular monthly Planning Board meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it as specified in this section. The Planning Board shall forward the application and its recommendations to the Board of Commissioners within 30 days after its review of the application. On receiving the application and the recommendations of the Planning Board, the Board of Commissioners shall give notice of a quasi-judicial evidentiary hearing ten days prior to the date of the hearing. At the quasi-judicial evidentiary hearing, the applicant, the local government, and any person who would have standing to appeal the decision under NC General Statute 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board of Commissioners. The Board of Commissioners shall consider the application and said recommendations of the Planning Board, and may approve or deny the requested special use permit.

The special use permit, if approved, shall include approval of plans as may be required. In approving the permit, the Board of Commissioners and Planning Board shall find as a specific finding of fact and reflect in their minutes that the permit will comply with the following four facts:

- (A) That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
- (B) That the use meets all required conditions and specifications;
- (C) That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and
- (D) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. The special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time.

In approving the special use permit, the Planning Board may recommend, and the Board of Commissioners may designate, such conditions in addition and in connection therewith as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted and also on the special use permit approving, and on the approved plans submitted therewith. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the Town, including, without limitation, taxes, impact fees, building design elements within the scope of NC General Statute 160D-702(b), driveway-related improvements in excess of those allowed in NC General Statute 136-18(29) and NC General Statute 160A-307, or other unauthorized limitations on the development or use of land. All specific conditions shall be consented to in writing, shall run with the land, and shall be binding on the original applicant for the special use permit, the heirs, successors, and assigns. In order to ensure that such conditions and requirements for each special use permit will be fulfilled, the petitioner for the special use permit may be required to enter into a contract with the Town of Calabash providing for the installation of the physical improvements required as a basis for the issuance of the special use permit. Performance of said contract shall be secured by cash or surety bond which will cover the total estimated cost of the improvements as determined by the Town of Calabash; provided, however, that said bond may be waived by the Board of Commissioners within its discretion.

If the Planning Board recommends the disapproval of the special use permit, and if the Board of Commissioners denies the permit, each body shall enter the reason for its action in the minutes of the meeting at which the action is taken.

In addition to the conditions specifically imposed by the Board of Commissioners, special uses shall comply with the height, area, and parking regulations of the zone in which they are located.

In the event of failure to comply with the plans approved by the Board of Commissioners or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction nor a certificate of compliance under this special use permit shall be issued, and the use of all completed structures shall immediately cease and such completed structures not thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.

Where plans are required to be submitted and approved as part of the application for a special use permit, modifications of the original plans may be authorized by the Board of Commissioners after review and recommendation by the Planning Board.

Section 12-18. Table of Regulations for Special Uses

Detailed regulations for each special use are set forth in this section.

- (A) For the uses listed in the table from Section 10-1, the following information must be submitted with the request for special use permit approval in the districts specified. See Section 12-18(B) for additional requirements.

- Minimum Lot Area: See Table of Yard, Area, and Height Requirements.
- Landscaping and Buffering: As specified in Article 16 of this Ordinance.
- Plans are required and must show:
 - Structures: Location of buildings and sign, and size of the sign.
 - Circulation: Proposed points of access and egress, and pattern of internal circulation.
 - Parking: Layout of parking spaces.
 - Lighting: Lighting plan, inclusive of wattage and illumination.
 - Drainage: If required by the Administrator, proposed provision for storm drainage (including retention pond facilities, when applicable).

Other Requirements: The Planning Board and Board of Commissioners may provide additional requirements as it deems necessary in order to make the proposed project more compatible with adjacent areas and existing or proposed traffic patterns.

- (B) The following **additional** specific information must be submitted with the request for special use permit approval in the districts specified.

(1) Use – Beach Bingo Facilities

District: [CB, HC]

The following specific provisions shall be met as minimum standards prior to the approval of any beach bingo facility as a special use:

- (a) Days and hours of operation limited to Thursday through Saturday, 4:00 p.m. until 10:00 p.m.
- (b) Minimum square footage: 2,000 square feet.
- (c) Minimum paved parking spaces:
 - (i) 1 space/3 occupancy,
 - (ii) 1 space/handicapped,
 - (iii) 1 space/handicapped/van accessible.
- (d) The operation will conform in accordance with the laws, ordinances, and statutes of the Town of Calabash, Brunswick County, and the State of North Carolina.
- (e) All permits must have been acquired before operations can start.
- (f) No prize money for each game can exceed \$10.
- (g) No more than 99 people, unless structures are so designed for assembly.
- (h) No less than two bathrooms; handicapped accessible.
- (i) If food or beverage is served, must meet requirement of Brunswick County Health Department.
- (j) Violation of any of the listed conditions may cause the Special Use Permit to be revoked.
- (k) 1,000 feet from any residential zoning district.
- (l) 1,000 feet from any church, daycare center, public or private elementary or secondary educational school, public park, public library, cemetery, or motion picture establishment which shows “G” or “PG” rated movies to the general public on a regular basis.
- (m) 1,600 feet from any other beach bingo facility.
- (n) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the beach bingo uses are located.

(2) Use – Cemeteries

District: [O/I, HC, AD]

NOTE: Commercial cemeteries (those that sell individual burial plots) are licensed under GS 65-48, 65-55, 65-57, 65-69, 160A-346, 160A-349.13 and shall be at least 30 acres in size.

The following specific provisions shall apply as a condition for the approval and continuance of a special use permit for a cemetery:

- (a) Public- or privately-owned perpetual care cemeteries which the Board of Commissioners finds in conformance with the following minimum requirements:
 - (i) A cemetery shall contain not less than two acres of land in contiguous ownership.
 - (ii) There shall be only one entrance from the cemetery onto a public road. Such entrance shall be located at least 500 feet from the nearest intersection of another public road.
 - (iii) A chapel, mortuary, undertaking establishment or crematorium may be developed within the cemetery as an accessory use to said cemetery provided that the land upon which it is built shall be and shall remain, in the same ownership as the cemetery, although the establishment itself may be conducted by persons other than the owners of the cemetery. Such establishments, if developed, may be within the required perimeter buffer strip of the cemetery, but shall be no closer than 150 feet to any residential dwelling on land adjoining the cemetery.
 - (iv) Access to such establishment shall be from within the cemetery, by means of the single entrance to the cemetery. Such an establishment shall be contained within a single building of not more than one story nor more than 20 feet in height. Only one such building shall be permitted in any cemetery. The design and plans for such building shall be subject to approval of the Board of Commissioners as a condition of the special use permit and shall be submitted as a part of the application.
- (b) Application for approval of this special use shall include a plan of the proposed cemetery drawn at a scale of not less than one inch equal to 100 feet. Such plan shall show the boundaries of the cemetery, all roads within 500 feet of the cemetery boundaries, all structures within 100 feet of the cemetery boundaries, all property lines connecting to the cemetery boundary, the names of the owners of the proposed

cemetery, the names of all property owners of land adjacent to the cemetery with identification as to their respective property location, a North arrow, and the scale of the drawing. The plan shall also show within the cemetery boundaries the entrance, the required perimeter buffer strip, the number and location of all lots and burial sites, all proposed roads, parking areas, easements and drainage structures, and any other proposed roads, parking areas, easements and drainage structures, and any other proposed development which shall be a change from the original topography, including grading and landscaping.

- (c) The granting of a special use permit for this purpose shall be special upon subsequent compliance by the cemetery owners with all state statutes governing the establishment and operation of a perpetual care cemetery.
- (d) Any cemeteries existing on March 19, 1991, may be continued without a permit.

(3) Use – Children’s Day Care Facilities

District: [R-15, R-8, R-6, R/C, PUD, O/I, HC, AD]

The following specific provisions shall be met as minimum standards prior to the approval of any children’s day care facility as a special use in a residentially zoned area:

- (a) Minimum lot size: 20,000 square feet.
- (b) Building setback minimum from any public or private street: 30 feet.
- (c) Rear yard setback minimum: 35 feet.
- (d) Side yard setback minimum: 20 feet.
- (e) Corner lot setback minimum from interior lot lines: 20 feet.
- (f) Minimum distance to another children’s day care facility as defined herein, whether conforming or nonconforming, shall be 2,500 feet.
- (g) Minimum off-street parking spaces: two plus one for each employee.
- (h) Minimum off-street loading and unloading area: In addition to the off-street parking area, there shall be sufficient driveway to accommodate at least two autos at one time for the purpose of loading and unloading passengers.

- (i) All children's outside play areas shall be enclosed with at least a four-foot high fence.

(4) Use - Dwelling, Multi-Family

For Special Use Permits for multi-family, apartments, townhomes, etc., see Article 14 Planned Building Group Regulations, Section 14-1 Planned Building Group Regulations for Apartments, Townhouses, and Condominiums.

(Amended by BOC 9-08-2020)

(5) Use - Marinas/Docks/Piers

District: [PUD, CD]

The following specific provisions shall be met as minimum standards prior to the construction and approval of operation of marinas/docks/piers as a special use:

- (a) A site plan for the new or remodeled facility, dock, or pier must be submitted to and approved by the Town.
- (b) All approvals from other jurisdictions must be obtained prior to issuing the special use permit (i.e., NC Department of Environmental and Natural Resources, Corps of Engineers, NCDOT).
 - (i) Buffers must be installed on all property lines abutting residentially zoned property in accordance with the requirements of this Ordinance.
 - (ii) Lighting installed on the property shall be installed in a manner that ensures on premise safety and controls glare on the public right-of-way and on public trust waters.
 - (iii) One parking space for each slip/tie up point, one parking space for each four seats on a tourist (head) or fishing "for hire" boat plus one parking for each four dry storage spaces shall be provided. In addition, if a public boat ramp is provided, adequate parking spaces for cars and boat trailers and adequate waiting area for launch and recovery of boats shall be provided.
 - (iv) Suitable arrangements for bathrooms facilities by contract and certified by the Town.
 - (v) Approved pump out facilities must be provided.

(vi) The Board of Commissioners may establish additional requirements for site plan approval and in specific cases may waive a particular requirement, if in its opinion that inclusion of that requirement is not essential to a proper assessment of the project.

(vii) Dry stack storage facilities must be identified.

(6) Use – Sweepstakes Business Facilities

District: [CB, HC, R/C]

The following specific provisions shall be met as minimum standards prior to the approval of any business primarily engaging in sweepstakes as a special use.

- (a) Days/Hours of operation—businesses primarily engaging in sweepstakes may operate twenty-four (24) hours per day, seven (7) days per week. However, if any complaint having merit is lodged against any sweepstakes business the Board of Commissioners or Board of Adjustment reserves the right to enforce new hours of operation.
- (b) Minimum square footage of building or unit: 2,000 square feet. The maximum number of machines/terminals for any sweepstake business is 100.
- (c) Minimum paved parking spaces:
 - (i) 1 space/3 occupancy
 - (ii) 1 space/handicapped (minimum-must comply NC Accessibility Code)
 - (iii) 1 space/handicapped van accessible
- (d) The business establishment will conform in accordance with the laws, ordinances, and statutes of the Town of Calabash, Brunswick County, the State of North Carolina, and the Federal Government.
- (e) Each approved establishment must have at least two (2) handicapped accessible bathrooms.
- (f) All permits must have been acquired before operation can start.
- (g) If food or beverage is served, the establishment must meet requirement of Brunswick County Health Department.

- (h) The establishment must be a minimum of three hundred (300) feet from any building used as a dwelling.
- (i) The establishment must be a minimum of one thousand (1,000) feet from any church, daycare center, public or private elementary/secondary/ educational school, public park, public library, or motion picture establishment where “G” or “PG” rated movies are shown to the public on a regular basis.
- (j) The establishment must be a minimum of one thousand, six hundred (1,600) feet from any other business primarily engaged in the sweepstake entertainment business.
- (k) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the sweepstake business is located.
- (l) Violation of any of the listed conditions may cause the Special Use Permit to be revoked.

(7) Use – Restaurants, Drive-Through

District: [CB, HC, PUD, R/C]

The following specific provisions as minimum standards prior to the approval of any restaurant establishment who desires to add a drive-through service window shall be met:

- (a) The pick-up service window is an accessory to a restaurant and shall not be used without first obtaining a special use permit. Only items allowed per state/federal laws for sale through a service window may be sold in this manner.
- (b) There shall not be more than one service window per location.
- (c) There shall not be an intercom or other similar device/system for placing an order on-site from a vehicle prior to driving forward to the service window. Orders shall be placed by phone, text, on-line, or on site and pick-up of an order may be made using the window.
- (d) Service windows drive aisles must be able to queue stack at least 4 (four) vehicles.
- (e) The property must be able to accommodate queue as well as a drive aisle around the queue.
- (f) There must be lighting, markings, and signage approved by the town zoning official to clearly mark the flow of traffic on the property.
- (g) The width of the service window must be of a size and height to accommodate food items, comply with local and state building codes, provide adequate visibility for both staff and customers, and be a

- secure design.
- (h) Additional stipulation may be added by the Board of Commissioners in their decision to issue a special use permit.

ARTICLE 13. RESIDENTIAL CLUSTER DEVELOPMENT

Section 13-1. Purpose and Intent; Definition

The purpose of residential cluster development is to provide an alternative development option that will:

- (A) Promote more efficient use of land resources than is otherwise possible under conventional zoning and subdivision regulations.
- (B) Reduce the per unit site development costs of dwellings by concentrating residential units on a portion of the site without increasing the overall net density above that which would normally be allowed pursuant to Article 11, Table of Area, Yard, and Height Requirements.
- (C) Preserve the natural character of the site.
- (D) Preserve farmland and scenic views.
- (E) Provide for desirable and usable open space, tree cover, and the preservation of environmentally sensitive areas.
- (F) Provide variety in residential buildings and properties and provide design flexibility that can relate the location of units to unique site conditions.

For the purposes of this section, a residential cluster development is defined as:

- (G) Development design wherein conventional zoning standards are relaxed to permit modifications in lot area, lot width, lot frontage, lot coverage, required yards, and public street access, and to save infrastructure development cost, environmental damage, energy use and land resources by concentrating dwellings in specific areas of the site without increasing the net density above that which would normally be allowed pursuant to Article 11, Table of Area, Yard, and Height Requirements; and
- (H) Such development shall provide a program for the provision, operation and maintenance of such areas, facilities and improvements as shall be required for the perpetual common use by the occupants of the development.

Section 13-2. Area; Permitted Districts, Exemption; Street Access; Open Space(s); Density; Dimensional Standards

Residential cluster developments shall contain not less than 5 net acres. For purposes of this section “net acres” shall be the total area of all lots and common area(s) exclusive of public street rights-of-way. Addition to any existing residential cluster development may be allowed provided such addition meets or exceeds all other applicable requirements.

Subject to the paragraph above, a residential cluster development may be allowed as a conditional rezoning within any R-6, R-8, R-15, MFH-II, or PUD zoning districts. Such development shall be exempt from the conventional zoning standards relative to lot area, lot width, lot frontage, lot coverage, required yards and public street access normally applicable to such districts, provided such development complies with the minimum standards set forth under this section unless modified by the Board of Commissioners when fulfilling the purpose of a conditional rezoning as presented in Section 4-8(A).

A residential cluster development shall provide open space(s) subject to all the following requirements:

- (A) Such open space shall be greater or equal in area to the total amount of area by which each lot was reduced below the minimum lot size requirement of the prevailing zoning district, or as provided under subsection (B), below, whichever is greater. Example: 10 lots of 6000 sq ft. minimum lot size reduced by 5% = 3000 sq ft $\geq$ required gross acreage x 15% as common open space; whichever is greater. An additional option is available to utilize pedestrian connectivity toward credit for meeting the open space requirement. (See section (C) below)
- (B) Residential cluster developments shall reserve not less than 15% of the gross acreage as common open space.
- (C) “Pedestrian connectivity” between open space areas may qualify divided areas to be considered as one continuous space. Acceptable methods of pedestrian connectivity shall have defined boundaries and may include, but are not limited to, sidewalks, pathways, bridges, trails or similar pathways. Signage to identify connectivity crossing areas may be required.
- (D) Such area shall not be used as a building site. For purposes of this section, picnic areas or shelters, ball fields, walking or jogging trails, boat ramps and docks or other similar recreational facilities may be allowed.
- (E) Such area shall not be devoted to any public street right-of-way, private driveway or parking area.
- (F) Such area shall be left in its natural or undisturbed state if wooded at the time of development, except for the cutting of trails for walking or jogging or, if not wooded at the time of development, is improved for the uses listed under subsection (C) above, or is properly vegetated and landscaped with the objectives of creating a wooded area or other area that is consistent with the objective set forth in subsection (F) below.
- (G) Such area shall be capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation or for horticulture if not devoted to other allowable uses in this subsection.
- (H) Such area shall be legally and practically accessible to the residents of the

development, or to the public if so dedicated.

- (I) A minimum of one-half of the required open space shall be contained in one continuous undivided part unless the plans incorporate an acceptable method of pedestrian connectivity design that meets the open space requirement.
- (J) Not more than 25% of the required open space shall lie within any floodway zone or wetlands.
- (K) Not more than 25% of the required open space may be devoted to allowable improvements of any single item as set forth in subsection D above.
- (L) Such area shall be perpetually owned and maintained for the purposes of this Article by a homeowners association or, at the option of the Town, dedicated or deeded to the public.
- (M) The location and arrangement of any open space(s) shall be subject to Planning Board and Board of Commissioners approval.
- (N) The owner shall, pursuant to the subdivision regulations, cause a final subdivision plat to be recorded in the Brunswick County Register of Deeds which clearly describes the open space(s), required deed restrictions, and conditions thereof, prior to the issuance of any building permit(s).

Section 13-3. Maximum Density Requirements

- (A) Residential density shall not exceed that which would normally be permitted under single-family standards within the prevailing zoning district on a net land area basis. (See Article 2 Definitions).
- (B) Public street rights-of-way and public street easements shall not be included or count towards the total net area for purposes of calculating allowable density.
- (C) Area dedicated or deeded to the Town pursuant to the sections above shall count towards net area for purposes of density calculation.

Section 13-4. Minimum Dimensional Standards

- (A) Lot area. Not less than 60% of the minimum lot area which would normally be required under the single-family standards of the prevailing zoning district.
- (B) Lot width. 40 feet as determined at front setback line. On a case-by-case basis, flag lots may be allowed with a minimum street frontage of 10 feet.
- (C) Lot frontage. 35 feet, except on the radius of a cul-de-sac and major curves where such distance may be reduced to 20 feet. (Note: This reduction below lot width accounts for curves in streets.)

- (D) Public street setback. No principal or accessory structure shall be closer than 10 feet to a public street right-of-way or as further provided herein, but in no case shall the placement of the structure at the driveway be less than 20 feet from back of road curb or to sidewalk. Note: The intent of this reduction is to allow reduction in the setback while providing a 20 foot guest parking in front of garage door that does not impede the road or to sidewalk, if applicable.
- (E) Side yard setback. Shall be subject to Section 13-5 (zero lot line) or not less than 10 feet, provided however, that no structure shall be located on more than one side lot line.

Dwellings which do not utilize the provisions of Section 13-5 (zero lot line) and are not located adjacent to a lot line subject to Section 13-5 shall maintain a minimum side setback of not less than five feet.

- (F) Rear yard setback. Shall be subject to Section 13-5 (zero lot line) or not less than 12 feet.
- (G) Building separations. No portion of any principal structure shall be located less than 12 feet from any other principal structure or less than 10 feet from any accessory structure as measured to the closest point. (This excludes building overhangs of 12 inches or less.)
- (H) Periphery boundary setback. Except as further provided no principal or accessory structure shall be located less than 25 feet from the peripheral boundaries of the residential cluster development.
- (I) Transition area setback. Where a residential cluster development adjoins or borders an existing single-family zoning district or other predominantly single-family development sharing common frontage on the same or opposite side of a public street, the minimum right-of-way and/or easement setback requirement of said single-family zone or development shall be utilized for the entire opposite frontage and 300 feet from such common border.

For purposes of this subsection, “other predominantly single-family development” shall be that area within 100 feet of the external boundary of the residential cluster development in which 50% or more of the conforming land uses are detached single-family residential.

- (J) Maximum height. 35 feet. NOTE: Refer to Section 2-2, Building Height Definition.
- (K) Detached accessory structure requirements.
- (1) Shall not be located within any front yard setback;
 - (2) Shall not be located within 10 feet of any other principal structure or within

five feet of any other accessory structure;

- (3) Shall not cover more than 20% of any side or rear yard; and
- (4) The side or rear yard requirement for detached accessory structures shall be subject to the provisions of Section 13-5 (zero lot line) or not less than five feet.

Section 13-5. Zero Side Yard Setbacks

A zero side yard setback as permitted herein, may be permitted, subject to the following provisions:

- (A) Any wall, constructed on the side or rear lot line shall be a solid doorless and windowless wall. Such wall shall contain no electrical, mechanical, heating, air conditioning, or other fixtures that project beyond such wall. If there is an offset of the wall from the lot line, such offset shall be subject to the applicable provisions of Section 13-4 (E) and (F). Roof eaves may encroach two feet into the adjoining lot;
- (B) A five (5) foot maintenance and access easement with a maximum eave encroachment easement of two feet within the maintenance easement shall be established on the adjoining lot and shall assure ready access to the lot line wall at reasonable periods of the day for normal maintenance;
- (C) Where zero side yard setbacks are proposed, the buildable area for each lot shall be indicated on the preliminary and final subdivision plat.

Section 13-6. Compliance with Subdivision Standards

All development regulated in accordance with this Article shall be subject to the requirements, conditions, and restrictions of the subdivision regulations, see Article 24.

ARTICLE 14. PLANNED BUILDING GROUP REGULATIONS

NOTE: Planned Building Groups will be considered a special use, processed, and approved under the requirements of a Special Use Permit (see Section 12-17) unless a use within the proposed development requires a conditional rezoning according to the Table of Permitted and Special Uses (see Section 10-1), in which case the review procedures in Section 4-8 shall apply to the entire project.

A planned building group is a residential project containing three or more attached dwelling units; a residential project with attached dwelling units for individual ownership; a commercial and/or institutional project located in an O/I, CB, HC, or PUD zoning district; or a commercial and/or office-institutional project located within an O/I, CB, HC, or PUD zoning district involving the construction of a building greater than 7,000 square feet; a commercial and/or office institutional project within an O/I, CB, or PUD zoning district involving the construction of more than one building; or a manufactured home park.

Section 14-1. Planned Building Group Regulations for Apartments, Townhouses, and Condominiums

- (A) Minimum Lot Area. As required by the zoning district in which the Planned Building Group is located, see Article 11, Table of Yard, Area, and Height Regulations.
- (B) Parking. As specified in Article 17 of this Ordinance.
- (C) Open Space (Recreation) Area. Open space areas shall be provided for all apartments and condominium planned building groups with over five dwelling units. A minimum open space pervious surface area of 2,000 square feet, having a minimum width of 40 feet or a minimum radius of 26 feet shall be provided for the first 6 to 25 dwelling units. For each dwelling unit over 25 in number, an additional 56 feet per dwelling unit shall be provided. The spatial distribution and number of individual play areas within the planned building group shall be determined by the Planning Board on the basis of the spatial arrangement of the dwelling units, topography, and other physical features. Swimming pools including their accessory areas shall not constitute any part of the open space requirements. No part of the required play area shall be used for any other purpose. All recreation areas shall be enclosed with permanent fencing at least five feet in height.

All open space shown on the site development plan shall be recorded in the Brunswick County Register of Deeds office and shall be conveyed by the following method.

By leasing or conveying title including beneficial ownership to a corporation, association, POA, or other legal entity, the terms of such lease or other

instruments of conveyance must include provisions suitable to the Town for guaranteeing:

- (1) The continued use of land for the intended purposes;
- (2) Continuity of proper maintenance for those portions of open space land requiring maintenance;
- (3) When appropriate, the availability of funds required for such maintenance;
- (4) Adequate insurance protection; and
- (5) Recovery for loss sustained by casualty, condemnation, or otherwise.

Furthermore, the applicant shall file in the Brunswick County Register of Deeds office at the time of site development approval, legal documents which shall produce the above guarantees and in particular, will provide a method for reserving the use of open space for the use and enjoyment of the residents of the development.

- (D) Timing. Proposed schedule of development including stages likely to be followed.
- (E) Sketch Design Plan. Previous to the filing of an application for approval of the planned building group, the developer shall submit to the Planning Board a sketch design of the proposed development. This plan shall be submitted at least ten days prior to a regular meeting of the Planning Board. At this meeting, the developer should discuss ideas and thoughts pertaining to the new development and also become familiar with the ordinances affecting the land being developed. Included in the sketch design plan indicating the proposed development layout shall be a sketch vicinity plan, including scale, which shows the development in relation to the surrounding areas. Structures shall be appropriate in scale and appearance to avoid sharp contrast with the character of the Town and the surrounding area. This procedure does not require formal application or fee.

The sketch plan should contain or be accompanied by the following information:

- (1) The proposed name and location of the development.
- (2) The name and address of the owner and the developer.
- (3) The total acreage in the tract to be developed.
- (4) The tentative street and plat arrangement.
- (5) The approximate rights-of-way, rights-of-way designation (public or private), easements, and lot lines.
- (6) The existing and proposed uses of land throughout the development.

- (7) Surface and subsurface drainage of the development.
 - (8) The zoning classification of the tract.
 - (9) Sites, if any, for parks and/or open spaces.
 - (10) Acreage in parks and other land uses.
 - (11) Sketch vicinity map showing relationship between the development and the surrounding area.
 - (12) Existing and proposed utilities.
- (F) Planned Building Group Site Development Plan. A site development plan, accompanied by the appropriate fee from the schedule of fees, drawn to scale shall contain the following information:
- (1) The names of the development, owner(s), and developers;
 - (2) The exact boundary lines of the development by lengths and bearings and the location of intersecting boundary lines and adjoining lands, along with the total acreage of the tract;
 - (3) Scale denoted both graphically and numerically;
 - (4) The plans for utility layouts, including sewers, storm sewer, water distribution lines, natural gas, telephone and electric service, connections to existing systems or plans for individual water supply systems and sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, gate valves, daily estimated sewer flow figures (NOTE: Type of construction materials and brand of appurtenances will require approval from the Town of Calabash);
 - (5) Street names, if applicable;
 - (6) The location, purpose, and dimensions of areas to be used for uses other than residential (i.e., parks, easements, etc.);
 - (7) Minimum building setback lines;
 - (8) The names of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);
 - (9) The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths and areas to be dedicated to public or property owner's use with a statement of the purpose of each;

- (10) Right-of-way lines, and pavement widths of all streets and the location and width of all adjacent streets and easements.
- (11) Property lines, buildings, or other structures, water courses, railroads, bridges, culverts, storm drains (both on the land to be subdivided and on the land immediately adjoining), corporate limits, and extraterritorial jurisdiction limits;
- (12) Sufficient engineering data to determine readily, and to be reproducible on the ground, every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute;
- (13) The accurate locations and descriptions of all monuments, markers, and control points;
- (14) The deed or master restrictions, proposed articles of incorporation and by-laws of property owner's association, or any other similar covenants;
- (15) The date of the survey and plat preparation;
- (16) North arrow and declination;
- (17) The name and location of any property within the planned development, or within any contiguous property, that is listed in the US Department of the Interior's National Register of Historic Places; likewise any property that has been designated by local ordinance as a "historic property" pursuant to NC General Statutes Chapter 160D;
- (18) The name(s), address(es), telephone number(s) of the owner(s), registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the professional engineer(s) and registered surveyor(s);
- (19) Flood hazard areas according to FEMA flood insurance rate map;
- (20) Topographic information showing vertical contour every two feet;
- (21) Show boundaries of areas of environmental concern (CAMA, Corp of Engineers);
- (22) Total number of multi-family dwellings and total number of dwelling units;

- (23) Total residential floor area in the development;
- (24) Total number of floors in each building/structure;
- (25) Total height of each building/structure;
- (26) Total open space area(s);
- (27) Total number of parking spaces;
- (28) All proposed landscaping including planting details as specified in Article 18 of this Ordinance.

(G) Placement of Buildings.

- (1) There shall be maintained at least 16 linear feet of open space between individual and unattached buildings in a residential planned building group.
- (2) Any group of buildings forming a courtyard shall have at least 25% of the perimeter of such courtyard open for access by emergency vehicles.
- (3) Where the length of a street exceeds 200 feet and where there exists six or more dwelling units, an area must be provided for the turnaround of fire-fighting vehicles on a paved or graveled surface. This area shall not be used for parking and shall subscribe a circular area having a paved radius of 35 feet or shall have a configuration which provides comparable turnaround space.
- (4) All building locations shall be approved by the Planning Board.

(H) Design Standards.

- (1) Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations.
- (2) The features and spaces should enhance the building and center as integral parts of the community. The use of such features as plazas, patios, and courtyards should be used when practical.
- (3) Multi-family structures shall be controlled by a maximum height, maximum number of dwelling units per acre, maximum floor area ratio (FAR), the maximum open space ratio (OSR), and maximum impervious coverage ratio.
- (4) Maximum number of dwelling units per acre shall be 11.
- (5) Maximum FAR shall be 3:1.

- (6) Minimum OSR shall be 55%.
- (7) Maximum impervious coverage ratio shall be 35%.

Section 14-2. Manufactured Home Park Regulations

(A) Administration.

(1) Permits.

- (a) It shall be unlawful for any person to maintain or operate a manufactured home park within the jurisdiction of this Ordinance unless such persons shall first obtain the Board of Commissioners special use permit as described in Article 12.
- (b) The special use permit shall be issued and subsequently renewed if the Board of Commissioners finds that the applicable provisions of this Ordinance and all other applicable provisions of this the Town Code and any other Town ordinances are satisfactorily complied with and, at the time of the initial special use request, if the Board of Commissioners finds that the location of a proposed park is acceptable.
- (c) No special use permit shall be issued for any manufactured home park not in operation upon the effective date of this Ordinance until the park plan has been approved by the Board of Commissioners as provided for in Article 24, Subdivisions.

(2) Construction or Alterations of Manufactured Home Parks.

- (a) No person shall construct or engage in the construction of any manufactured home park or make any addition or alteration to a manufactured home park that either alters the number of sites for manufactured homes within the park or affects the facilities required therein until he first secures a special use permit authorizing such construction addition, or alteration. The construction, addition, or alteration shall be done in accordance with plans and specifications submitted with the application and approved by the proper authorities. Procedures for the application securing such permit are described in Article 12. However, before the Planning Board shall review the special use request, a park plan (described below) must be submitted for review and approval by the Planning Board. No plan is required to be prepared and approved for issuance of a permit to make minor facility improvements in an existing manufactured home park where the number of manufactured home sites within the park is not affected. When no plan is required, application for a zoning permit may be made directly to the Administrator.

- (b) Four copies of the park plan shall be submitted and, upon approval by the Board of Commissioners, each copy shall be dated and signed by the Mayor and Administrator, denoting Town approval. One copy shall be returned to the park owner or developer, one copy shall be submitted to the Town Hall to be held for public view, one copy shall be sent to the Inspections Department, and the fourth copy shall be retained by the Planning Board for its records.
 - (c) The approved park plan becomes part of the conditions for the special use and must be constructed and maintained accordingly in order to retain the permit. The Administrator or Building Inspector shall make an examination of the construction at any reasonable time to determine whether the work is being done according to approved plans and specifications and the owner shall make available any records, test data or other information essential to such determination.
 - (d) When all specified improvements have been made the Building Inspector or Administrator shall issue a Certificate of Occupancy and the developer may begin moving in homes and begin operations.
 - (e) Adherence to the operating standards are other conditions required for the special use permit to be renewed.
- (3) The Park Plan Must Show. The park plan shall be drawn on reproducible sheets to a scale of not less than one inch equals 40 feet and shall show the following on one or more sheets:
- (a) The name of the manufactured home park, the names and addresses of the owner(s), and the designer of the park.
 - (b) Title information shall include: name of park, name of developer, scale, date, and name of surveyor.
 - (c) Date, approximate north arrow, and scale.
 - (d) The boundary line of the tract, with accurate linear and angular dimensions drawn to scale and the area of the park in square feet or acres.
 - (e) A location map with a scale no less than 1" = 1,000' showing the location of the manufactured home park and relationship of the site to public roads/streets.
 - (f) Manufactured homes spaces well defined.
 - (g) All structures in the park site (present or proposed).

- (h) Location of any flood hazard areas as defined by Corps of Engineers which is located on property adjacent to the proposed manufactured home park.
- (i) The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drainpipes, and any utility easements. The Planning Board and Administrator may require similar information to be shown on proposed park boundaries. The names of adjoining subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land shall also be indicated.
- (j) The names, proposed location and approximate dimensions of proposed streets, alleys, driveways, entrances, exits, walkways, easements, recreation areas, parks and open spaces, reservations, manufactured home spaces, manufactured home stands, parking areas, and building lines within the park. The locations, dimensions, and types of all buffers which must meet the requirements detailed in Article 16. In all cases, the proposed characteristics shall be shown in a manner that shall distinguish them clearly from the existing characteristics of the land.
- (k) All proposed landscaping including plant details as specified in Article 16 of this Ordinance.
- (l) Profiles of all proposed public or private streets or drives, showing natural and finished grades drawn to a scale of not less than 1" = 40' horizontal and 1" = 4' vertical.
- (m) Method of surfacing roads within the park.
- (n) Proposed storm drainage for each manufactured home space and for the entire manufactured home park including all proposed grading and sewer installation which may be deemed necessary to ensure proper drainage and the elimination of ponding. Proper drainage requires a storm drainage capacity to the ten-year storm level.
- (o) Location and number of garbage receptacles.
- (p) A detailed plan for electrical installations prepared to meet the National Electrical Code and state and local codes or ordinances, including location and intensity of area lights, riser diagrams, and typical connections to manufactured homes, or a statement indicating that the power companies will be responsible for design and installation of the electric system.

- (q) Where public water and public sewer is not available, a written statement from the County Health Department shall be submitted with the manufactured home park plan indicating that the manufactured home park has adequate land area and suitable soils and topography to accommodate the proposed methods of water supply and sewage disposal.
 - (r) A detailed drawing to scale of not less than 1" = 10' shall be prepared of a typical manufactured home space showing the location of the manufactured home stand, all utilities, the manufactured home utility connections, the patio, concrete footing, walks, parking spaces, driveways, and all other improvements.
- (B) Design Standards (Precedent to Permit). The following design standards must be met on the park plan before a special use permit can be issued.
- (1) Every manufactured home park shall be located on a tract of land not less than two acres in size.
 - (2) Each manufactured home space shall be clearly established on the ground by permanent monuments or markers. Spaces served by municipal water and sewer systems or community water and sewer systems shall be at least 6,000 square feet of ground area. All lots not served by public or community service and/or water meet the minimum lot size established by the Brunswick County Health Department.
 - (3) No more than one manufactured home may be parked on any manufactured home space.
 - (4) The supports of all manufactured homes parked within an authorized park shall rest upon footings which meet the North Carolina Regulations for Mobile Homes. Each manufactured home space shall be provided with a patio of at least 100 square feet constructed of concrete brick flagstone or other such hard surface material or a porch of similar size raised above the ground. A paved or gravel walkway two feet wide minimum leading from the road or off-street parking space to the patio shall be provided. Each patio and walkway shall be graded and properly drained to prevent ponding.
 - (5) The following dimensional requirements shall be met:
 - (a) Minimum manufactured home park area: 3 acres.
 - (b) Minimum park width: 100 feet.
 - (c) Maximum density: 6 units per acre.
 - (d) Minimum size of mobile home space: 6,000 square feet.

- (e) Minimum mobile home space width: 50 feet.
- (f) Minimum mobile home space depth: 100 feet.
- (g) Minimum setbacks on all sides for a mobile home within a space: 10 feet. Any attached accessory structure such as a room extension porches and porch roofs and carports shall, for the purpose of this setback requirements, be considered to be part of the mobile home.
- (h) Minimum setbacks for manufactured home to external park boundaries:
 - (i) Front yard: 40 feet.
 - (ii) Side and rear yard: 20 feet.
 - (iii) Maximum building height: 35 feet.
 - (iv) Maximum age of unit: 5 years.
 - (v) Manufactured homes shall be Class “B” as defined in this Ordinance.
 - (vi) Minimum required living area: 600 square feet.
- (6) A driveway and parking space sufficient to accommodate at least two automobiles shall be constructed within or assigned to each manufactured home space and shall be paved or covered with crushed stone or other suitable material.
- (7) The manufactured home park shall be located so as not to be susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises. Where storm drainway pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the manufactured home park when needed so long as the capacity of the existing system can handle the additional load.
- (8) Each manufactured home stand and the manufactured home space shall be graded to provide adequate storm drainage away from the manufactured home and such that there will exist no more than three feet difference between the chassis of the manufactured home and the finished grade of the manufactured home stand along the entire perimeter of the manufactured home proper.

- (9) The manufactured home park shall have paved or gravel roads and streets, lighted at night, that directly abut all manufactured home spaces. Road surface widths shall be at least:
 - (a) One-way, no parking: 11 feet.
 - (b) One-way, parking on one side only: 18 feet.
 - (c) Two-way, no parking: 20 feet.
 - (d) Two-way, parking on one side only: 26 feet.
 - (e) Two-way, parking on both sides: 32 feet.
- (10) No manufactured home space shall have direct vehicular access to a public street.
- (11) Area to provide proper drainage ditches and a three to one back slope shall be provided where determined necessary by the Planning Board, upon recommendation by the Administrator.
- (12) Closed ends of dead-end streets shall be provided with an adequately surfaced vehicular turning circle at least 60 feet in diameter or a turning “Y” with an angle of at least 90°.
- (13) Each manufactured home stand shall have adequate access, for both the manufactured home and autos, with a minimum access width of 20 feet unless more is deemed necessary because of topographical conditions or street curvature, so that the parking, loading or maneuvering of a manufactured home shall not necessitate the use of any public street or right-of-way or any private property not part of the manufactured home park.
- (14) When the manufactured home park has more than one direct access to a public street, they shall not be less than 200 feet apart or less than 200 feet from a public street intersection unless topographical or site conditions demand otherwise.
- (15) Signs for the identification of manufactured home parks must meet the requirements of Article 18.
- (16) Buffers shall be installed around the entire perimeter of the manufactured home park. Such buffers must meet the requirements of Article 16 and not be included within the dimensions of any manufactured home space.
- (17) The following utility standards shall apply. In every manufactured home park all installations (other than those within the manufactured home itself)

of plumbing and electrical wiring and all gas and oil appliances shall comply with the provisions of the building, plumbing, electrical, heating and gas regulations of the state, county, and Town.

- (a) Utilities. All utilities shall be installed underground.
 - (b) Manufactured home stand utilities. Each manufactured home stand shall be equipped with plumbing and electrical connections grouped together within the manufactured home stand.
 - (c) Water supply. Each manufactured home park shall obtain water from a public water supply when available and when unavailable from a source approved by the County Health Officer. The supply shall be adequate for the park requirements. The drinking, cooking, laundry, and general bathroom water supply for each individual manufactured home shall be obtained from faucets or other plumbing connections located within each manufactured home.
 - (d) Sewage Disposal. Each manufactured home park shall be provided with an adequate sewage disposal system either by connection to a public sewage system or septic tank system approved by the County Health Department.
- (18) Open space. Each park shall provide recreation areas to serve the needs of the anticipated users. Eight percent of the total land area shall be devoted to accessible common open space intended for recreational use. The park owner is responsible for the development and maintenance of the recreation areas.
- (C) Operating Standards (Subsequent to Permit). The following operating standards shall be conditions to any special use permit to operate a manufactured home park and as such must be maintained in order to qualify for a permit renewal.
- (1) Manufactured home sales in manufactured home parks. It shall be unlawful to conduct on a commercial basis the sale of manufactured homes or travel trailers within a manufactured home park.
 - (2) Residential units not to be travel trailers. No manufactured home park shall permit a travel trailer as herein defined to be located within its boundaries for periods greater than one week if used for any dwelling whatsoever.
 - (3) Manufactured home equipment. Each manufactured home shall have a flush toilet, lavatory, bathtub or shower, cooking facilities and electric wiring and shall be required to connect with the utilities provided at each manufactured home space.

- (4) Refuse Disposal. All garbage and refuse in every manufactured home park shall be stored in suitable watertight and fly-tight receptacles which shall be kept covered with closely fitting covers. The size and type of all garbage receptacles shall be in conformance with Town standards. No person shall throw or leave garbage or refuse upon the ground of any manufactured home park. It shall be the duty of the manufactured home park operator to make certain that all garbage and refuse is regularly disposed of in a sanitary manner.
- (5) Health regulations. All applicable health regulations shall apply to manufactured home parks within the jurisdiction of the Town except where such regulations are in conflict with the provisions of this section, in which case the more restrictive provisions shall apply.
- (6) Tiedowns. The owner of the manufactured home park shall be responsible to see that each manufactured home parked within the manufactured home park is properly tied down.
- (7) Fire prevention and detection. In addition to many fire prevention regulations of the Town, the following shall apply:
 - (a) The operator of a manufactured home park is responsible for informing each park resident of the location of the nearest alarm box if any, the location of an accessible telephone and the telephone number to be used to report fires, and procedures to be followed in case of a fire.
 - (b) The park owner shall install a fire extinguisher labeled as suitable for Class A, B, and C fires and a type approved by the Fire Department in each building open to the public and in the park office. The park staff shall be instructed in the proper use of any fire protection equipment available in the park and their specific duties in the event of fire shall be defined.
 - (c) The park owner or operator shall maintain the park area free of rubbish, dry, brush, leaves, weeds, and any other materials which might communicate fires between manufactured homes and other buildings.
 - (d) Empty liquified petroleum gas containers and other objects and materials not approved by the Fire Department shall not be stored under manufactured homes.
 - (e) The manufactured home park owner shall be responsible for payment of any applicable fee if the Fire Department is called upon.

Section 14-3. Recreational Vehicle Parks

It is the intent of this section to set minimum standards for areas that are to be developed for occupancy on a temporary basis. A recreational vehicle is not considered to be a residential structure but is considered to be a vehicle in which people live temporarily.

- (A) **Park Plans.**
Plan submittal and approval of a recreational vehicle park shall be in accordance with the requirements set forth in Section 14-2 above.
- (B) **Suitability of Land.**
Land subject to improper drainage, erosion, or that is for topographical or for other reasons unsuitable for recreational vehicles as determined by the Administrator, shall not be developed for recreational vehicle parks so long as such would continue or increase the danger of health, safety, or property unless the hazards can be and are corrected or avoided.
- (C) **Site Development.**
 - (1) Every recreational vehicle park shall contain at least 15 spaces and contain a gross land area of at least three acres.
 - (2) There shall be a minimum distance of 25 feet between each recreational vehicle or structure.
 - (3) Each space shall consist of a minimum of 1,500 square feet.
 - (4) All spaces developed adjacent to a public street shall be setback a minimum of 40 feet from the street right-of-way.
 - (5) All spaces shall be located on sites with elevations that are not susceptible to flooding and not less than 100 feet from mean high-water mark of any lake, pond, and the like. The spaces shall be graded to prevent any water from ponding and accumulating within the park. Each space shall be properly graded to obtain a reasonable flat site and to provide adequate drainage away from the space. All ditch banks shall be sloped and seeded.
 - (6) The park shall have all-weather roads that directly abut each space. All roads shall have a minimum width of 18 feet, except that one-way roads may have a minimum width of 12 feet. In areas of heavy vehicle use, wider roads shall be required. Such streets shall be well-maintained and clearly identified. All streets within the park shall be privately-owned and maintained. Each space shall abut an internal street within the park.
 - (a) All parking within the park shall take place off the internal street within designated areas only. All internal streets within the park shall be equipped with adequate and suitable drainage facilities.

- (b) Maintenance of all internal streets and drainage facilities shall be the responsibility of the owner of the park. Such streets shall be maintained in a manner to be free from potholes, breaks in the pavement, rough surfaces, ponding of water and associated problems which would impede or cause hazards to motor vehicles. Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the bump must be placed along the street.
- (7) No space shall have direct vehicular access into a public road.
- (8) Cul-de-sacs or dead-end roads shall not exceed 1,000 feet in length measured from the entrance to the center of the turnaround. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum diameter of 80 feet.
- (9) When the park has more than one direct access to a public road, they shall not be less than 300 feet apart or closer than 300 feet to a public road intersection unless unusual site conditions demand otherwise.
 - (a) Parks shall not be located on through lots unless the park is designed in a manner which does not encourage motorists from using the park as a means of travel from one public street to another.
 - (b) Parks requiring only one entrance and exit area shall provide at least one permanent turn-around within the park. All park entrances must be approved by the NC Department of Transportation.
- (10) Each park shall have a central structure or structures that will provide separate toilet facilities for both sexes. This structure may also contain coin-operated machines for the park residents' use only, provided there is not exterior advertising. Vending machines may also be permitted in an enclosed area.
- (11) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable regulations. No bathing area shall be used without the approval of the Brunswick County Health Department.
- (12) Recreational vehicle park identification signs shall be limited to one sign per park entrance. No sign shall exceed 36 square feet in area. All signs must comply with any other applicable regulations of the Town. Each vehicle space shall be identified by a permanent number which shall not be changed. The appropriate number of each vehicle space must be permanent and visibly displayed on each space. Each number shall be placed on a concrete, wood, metal, or any permanent post and conspicuously located on the lot.

- (13) No more than one recreational vehicle may be parked on any one space. Recreational vehicles shall not be permitted on parcels, lots or spaces other than those approved through these regulations.
- (14) The transfer of title of a recreational vehicle space or spaces either by sale or by any other manner shall be prohibited within a park as long as the park is in operation.
- (15) All recreational vehicle units must be placed individual on approved vehicle spaces where all design standards and utilities have been completed.

(D) Sanitation.

- (1) Sanitary Facilities. All toilet, shower, lavatory, and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently-located. All toilet, shower, lavatory, and laundry facilities shall be acceptable to the Brunswick County Health Department and shall be in conformity with all applicable codes. All buildings shall be constructed in accordance with the state building codes.
- (2) Water Supply. A safe, adequate, and conveniently-located water supply must be provided for each park. No water supply shall be installed, altered, or used without the approval of the Brunswick County Health Department. Tests to be conducted according to Health Department standards. Where a public municipal or community water system exists within 1,000 feet of the park, the developer shall connect to such system.
- (3) Sewage Disposal. Sewage dumping stations shall be approved by the Brunswick County Health Department. Each park shall provide at least one sewage dumping station per 100 recreational vehicle spaces. No method of sewage disposal shall be installed, altered, or used without the approval of the Brunswick County Health Department. All sewage wastes from each park, including waste from toilets, showers, bathtubs, lavatories, washbasins, sinks, and water-using appliances not herein mentioned, shall be piped into the park sewage disposal system or systems. Where a public municipal or community sewer system exists within 1,000 feet of the park, the developer shall connect to such system.
- (4) Garbage and refuse disposal.
 - (a) The park owner is responsible for refuse collection. All refuse shall be collected at least twice weekly, or more if the need is indicated during peak usage periods.

- (b) Storage, collection, and disposal of refuse shall be so managed as not to create health hazards, rodent harborage, insect breeding areas, accidents, fire hazards or air pollution.
 - (c) All refuse shall be stored in conveniently-located leak-proof, rodent-proof containers with tight-fitting lids. The owner shall provide on such can with a capacity of at least 20 gallons for every two spaces. Garbage cans shall be located no farther than 150 feet from any recreational vehicle space.
 - (d) Racks or concrete platforms shall be provided on which to store containers. Racks or platforms shall be so designed to prevent tipping and to minimize spillage.
 - (e) Buildings and grounds shall be maintained free of rodent/insect harborage and infestation. Extermination methods and other control measures shall be in accordance with the requirements of licensed pest control operators. The park owner shall be responsible for pest extermination and pest control measures to prevent the development of unsanitary conditions.
- (5) Electrical service. Where electrical service is used, the installation and use of such facilities shall conform with all applicable codes. Such facilities shall be inspected by the Building and/or Electrical Inspector.
- (6) Open space. Each park shall provide recreation areas to serve the needs of the anticipated users. Eight percent of the total land area shall be devoted to accessible common open space intended for recreational use. The park owner is responsible for the development and maintenance of the recreation areas.
- (7) Manufactured homes. It shall be unlawful for a person to park or store a manufactured home in a recreational vehicle park. However, two manufactured homes may be allowed within the recreational vehicle park to be used as residences of persons responsible for the operation and/or maintenance of the park.
- (8) Junked or wrecked vehicles. Junked or wrecked vehicles are prohibited in recreational vehicle parks.
- (9) Buffering. A buffer strip at least ten feet in width shall be maintained. This strip shall be free of all encroachment by buildings, parking areas, or impervious coverage. No designated recreational vehicle spaces shall include any of the areas required for buffering in accordance with this section.

- (10) Registration of occupants. Every park owner or operator shall maintain an accurate register containing a record of all occupants and owners of recreational vehicles in the park. The register shall be available for inspection at all times by authorized Town representatives. The register shall contain the following information:
 - (a) Name and address of the occupants of each space.
 - (b) Recreational vehicle space number.
 - (c) Date when occupancy within the recreational vehicle park begins and date when occupancy within the park ceases.
- (11) Permanent occupancy prohibited.
 - (a) No recreational vehicle space shall be used as a permanent place of abode.
 - (b) Any action toward removal of wheels of a camper except for temporary purposes of repair is hereby prohibited.
- (12) Inspection.
 - (a) The Brunswick County Health Department, the Town Building Inspections Department, and the Town Planning Board are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with these regulations.
 - (b) If connecting to county water, the developer must comply with minimum county standards.
 - (c) It shall be the duty of the owners of recreational vehicle parks to give these agencies free access to such premises at reasonable times for inspections.

Section 14-4. Business Planned Building Group Regulations

- (A) Construction or Expansion of Planned Building Group. The following planned building group regulations shall apply to a commercial and/or institutional project located in an O/I, MD, CB, HC, or PUD zoning district; a commercial and/or office-institutional project located within an O/I, MD, CB, HC, or PUD zoning district involving the construction of a building greater than 7,000 square feet; a commercial and/or office-institutional project within a O/I, MD, CB, or PUD zoning district involving the construction of more than one building. Mixed uses are allowed in approved Business Planned Building Groups.
 - Parking: As specified in Article 17 of this Ordinance.

- Loading: As specified in Article 17 of this Ordinance.
- Landscaping: As specified in Article 16 of this Ordinance.
- Screening and Fencing: A screen not less than six feet high of dense plant material and/or fence where a lot abuts a residentially zoned lot.

Plans are required and must show:

- Structures: Location and approximate size of all structures.
- Circulation: Proposed points of access and egress and proposed pattern of internal automobile and pedestrian circulation. Curb cuts at a maximum combined width of 25 feet shall be allowed for each 80 feet of lot frontage or portion thereof. The locations of all points of ingress and egress shall be approved by the Town of Calabash Planning Board.
- Signs: The applicable zone sign regulations shall apply to this planned building group requirement.

Other site plan requirements:

- (1) Size and location of all signs.
- (2) Size and location of all fences, walls, and hedges.
- (3) Proposed provision for storm drainage (including retention pond facilities, when applicable), approved by the Administrator.
- (4) Proposed solid waste storage facilities.
- (5) Lighting plan, inclusive of wattage and illumination.
- (6) Installation of curb and gutter may be required in conformance with the storm water control ordinance.
- (7) Depict traffic control devices.
- (8) Parking area shall have a stabilized surface with parking space and traffic lanes clearly marked.

- (B) Construction of a Building Greater than 7,000 Square Feet in O/I, MD, CB, HC, and PUD Districts. The following planned building group regulations shall apply in the development of O/I, MD, CB, HC, and PUD districts involving the construction of a building greater than 7,000 square feet or projects involving the construction of more than one building, structure or combination thereof shall also comply with the following regulations:

Parking and Loading: Four parking spaces per 1,000 square feet of leasable building area for planned building groups having a leasable building area of 400,000 square feet or less; 4-1/2 parking spaces per 1,000 square feet of leasable building area for planned building groups having a leasable building area from

400,001 to 600,000 square feet; and five parking spaces per 1,000 square feet of leasable building area for planned building groups having a leasable building area over 600,000 square feet.

One loading bay for up to 20,000 square feet of leasable building area; one loading bay for each 30,000 square feet over 20,000 square feet, up to 110,000 square feet; one loading bay for each 50,000 square feet over 110,000 square feet.

Warehouse and office-institutional planned building groups shall adhere to the respective parking ratios as listed in Article 17 of this Ordinance.

Screening and Fencing: A screen not less than six feet high of dense plant material and/or fence where the lot abuts a residential lot. Lots Fronting on a Public Street: The Planning Board may approve plans with lots within the interior of a business planned building group project provided that the Board finds that adequate access is assured by the design of the planned building group.

Minimum Yard Requirements: The Planning Board may approve plans which do not provide minimum yards along interior lot lines within a business planned building group project. All exterior lot lines located along the perimeter of the business planned building group shall satisfy the standards listed within Article 11, "Table of Area, Yard, Density, and Height Requirements."

Plans are required and must show:

- Structures: Location and approximate size of all existing and proposed structures within the site, and all buildings and structures within 500 feet, in addition to public or private easements or rights-of-way adjoining or intersecting such property.
- Circulation: Proposed points of access and egress and proposed pattern of internal automobile and pedestrian circulation.
- Parking and Loading: Location and extent of proposed parking and loading areas.
- Timing: Proposed schedule of development, including stages likely to be followed.

Other Details:

- (1) Proposed provision for storm drainage (including retention pond facilities, when applicable) and sanitary sewerage, approved by the Administrator.
- (2) Size and proposed location of any signs.
- (3) Proposed solid waste storage facilities.
- (4) Proposed water system. Hydrants shall be located within 300 feet of any building or portion thereof. Where possible, such hydrants shall be located at least 50 feet from any building. If buildings have standpipes and sprinkler

systems, one hydrant shall be located within 75 feet of each standpipe and sprinkler system connection.

- (5) Types of surfacing, slope, grade and cross-section of driveways, sidewalks, malls, etc.
- (6) The location and heights of all fences, walls, and hedges shall be shown.
- (7) Profiles of publicly maintained water and sewer lines.
- (8) Profiles, cross-sections and slopes of on-site and off-site ditches carrying water runoff.
- (9) Erosion and sedimentation control plan.
- (10) Lighting plan, inclusive of wattage and illumination.
- (11) Installation of curb and gutter shall be mandatory.
- (12) Depict traffic control devices.
- (13) All plans and construction details must meet the current specifications of the Town of Calabash.

Other Requirements:

- (14) Points of access and egress shall consist of driveways or roadways at least 20 feet in width and shall be set back a sufficient distance from highway intersections to minimize traffic hazards, inconvenience, and congestion.
- (15) Parking areas shall have a stabilized surface with parking spaces and traffic lanes clearly marked.

Placement of Buildings:

- (16) Exterior walls of unattached buildings shall be located no closer than a distance equal to the height of the taller building.
- (17) Any courtyard created by the placement of the buildings shall have at least 25% of its perimeter open for access by emergency vehicles.

ARTICLE 15. PLANNED UNIT DEVELOPMENT (PUD)

Section 15-1. Purpose of a PUD

The purpose of the Planned Unit Development is to encourage the development of desirable living environments which meet the needs of the residents who live in them. Establishment of a PUD requires rezoning to the PUD zoning classification. Certain development privileges, through diversified land development standards in exchange for pre-planning and innovative design considerations, provide flexibility in utilizing new development concepts that are intended to:

- (A) Encourage creative development that preserves natural and scenic features.
- (B) Provide for abundant and accessible open and recreational space.
- (C) Promote the efficient use of land resulting in infrastructure networks that maximize the allocation of fiscal and natural resources.

Section 15-2. Application

Planned Unit Developments (PUD) are permissible in the PUD Zoning Districts where Planned Unit Development zoning has been established by the Town of Calabash Board of Commissioners and are covered by the standards contained herein.

If a use within the proposed development requires a conditional rezoning according to the Table of Permitted and Special Uses (see Section 10-1), the review procedures in Section 4-8 shall apply to the entire project.

Section 15-3. Procedure

- (A) Application for Zoning Map Amendment. A petition for a zoning map amendment to establish a planned unit development district (PUD) shall be submitted to the Planning Board and Board of Commissioners and administered in accordance with the provisions of the Zoning Ordinance for amendments as defined by Article 4 of this Ordinance.
 - (1) Criteria. In addition to other considerations, the following may be utilized by the Planning Board and Board of Commissioners in evaluation of a rezoning petition to establish a planned unit development zoning district:
 - (a) That the total development can create a needed residential environment;
 - (b) That existing or proposed utility and other public services are adequate for the anticipated population densities; and

- (c) That the planned unit development is in general conformity with the Town's comprehensive Land Use Plan.
- (2) Zoning Map Designation. Following Board of Commissioners approval of a rezoning petition to establish a planned unit development district (PUD), the property for which approval was granted by the Ordinance shall be labeled "PUD" on the official zoning map of the Town of Calabash. No permits for development shall be issued within any area designated as "PUD" unless the provisions as set forth herein are complied with.
- (B) Application for Special Use Permit. An application for a special use permit to develop a specific planned unit development shall only be considered when the property is zoned planned unit development district (PUD). Application shall be submitted in accordance with Article 12 and signed by all property owners.
 - (1) Criteria. In addition to other considerations, the following may be utilized by the Planning Board in evaluation of a special use permit:
 - (a) That the proposed population densities, land uses, and other special characteristics of development can exist in harmony with adjacent areas;
 - (b) That the adjacent areas can be developed in compatibility with the proposed planned unit development; and
 - (c) That the proposed planned unit development will not adversely affect traffic patterns and flow in adjacent areas.
 - (2) The approved site plan must specify applicable areas of zoning and specific uses.

Section 15-4. Elements of a PUD

- (A) Minimum Size. A Planned Unit Development zoning district shall be located on a site(s) containing at least 10 (ten) contiguous acres.
- (B) Phases of Development. The PUD may be developed in phases or sections in accordance with the phasing schedule submitted as part of the approved plan.
- (C) Filing Fee. A filing fee subject to the adopted fee schedule shall accompany each Special Use Permit Application for a Planned Unit Development. Each phase or section of a PUD will be subject to the PUD approval process described herein.

Section 15-5. Design Standards

Planned Unit Developments shall be in conformance with the Town of Calabash Zoning and Subdivision Ordinances except for the following development standards:

- (A) Density. The maximum density of a Planned Unit Development shall be ten (10) dwelling units per acre of net buildable area.

Minimum assured recreation/open space shall be a percentage of the gross site area integrated throughout the PUD and accessible to the housing units. Assured recreation/open space shall not include marsh, Carolina Bays, areas of environmental concern (as described by the NC Coastal Resources Commission), pocosins, 404 wetlands, or swamps. In some instances, use of wetlands as open space may be presented for consideration by the Planning & Zoning Board. PUDs are allowed a 75% credit toward the applicable open space requirement for commercial recreational areas such as golf courses. Dedicated open space within a PUD for a boat ramp with parking (open to the general public) will be allowed a 110% open space credit. Dedicated public parks with parking (open to the general public) will be allowed a 110% open space credit.

Open space acreage applied to streams and ponds outside golf course design shall be in direct proportion to the percentage dedicated for public access. Assured Recreation/Open Space shall meet the following minimum requirements:

Open space is 25% (twenty-five percent) of net buildable area or a proportional fraction of this for lower densities (e.g., a density of 8 would result in a minimum open space requirement of $8/10 * 25\% = 24\%$). Minimum open space shall be 15%. At least 12% of the required open space shall be recreational space.

- (1) Wetlands. Ecologically sensitive lands as follows: Carolina Bays, areas of environmental concern (as described by the NC Coastal Resources Commission), pocosins, 404 wetlands, areas of environmental concern (AEC's) and swamps are to be preserved whenever possible for the public interest. Full density credit is to be applied as long as such areas are dedicated as perpetual conservation easements.
- (2) Setbacks. Minimum setbacks from property lines and distances between structures shall be as follows: Front, 15 feet; any periphery property line, 30 feet. The minimum distance between internal structures shall be as required by NC State Building Code.
- (3) Commercial Use Within Planned Unit Developments. Commercial use within a PUD is permitted as long as there are at least 20 acres or more of land. The developer may designate an area not greater than 10 (ten) percent of the total acreage for commercial use, excluding golf courses and marinas which may be developed upon completion of 50% of the residential portion of the project. (Water areas, though they may be used as boat slips, shall not be used and will not be counted for purposes of meeting open space or commercial use requirements.) Commercial use within a PUD shall be designed and located to serve primarily the residents of the PUD. Such commercial use shall, at minimum, have one internal access to the

commercial development portion of the PUD and shall not negatively effect or inconvenience residents adjacent to (or in the area of) but not residing within the PUD. High traffic or other commercial uses which do not meet the requirements of this ordinance will not be approved.

- (4) Stormwater Management. Planned Unit Developments shall provide stormwater drainage systems in accordance with the State of North Carolina water quality and sedimentation and erosion control requirements. Planned Unit Developments shall in all cases adhere to the Town of Calabash Flood Damage Prevention Ordinance (Article 19).
- (5) Improvement Guarantees. In lieu of requiring the completion, installation and dedication of all improvements (i.e., streets, water and if applicable, sewer) prior to final plat approval, financial assurance in an amount equal to 125% for the installation of the required improvements shall be provided, with the exception of electric utilities. Financial assurance guarantees described in the Town of Calabash Subdivision Ordinance may be used to guarantee the installation of said improvements.
- (6) Utilities. Provision of utility services shall be underground. Adequate easements and rights-of-way for ingress and egress for maintenance shall be provided.
 - (a) Water and Sewer. Provision of water and sewer to each housing unit and nonresidential structure within a PUD shall be in accordance with all code requirements and the provision and adequacy of all plans for the extension of such services shall be reviewed and approved as to adequacy by a competent North Carolina licensed engineer. The expense for such review and comment to be paid for by the PUD project development organization.
 - (b) Electrical, Telephone, and Cable. Electrical, telephone and cable shall be underground. A written statement by the utility company authorized to provide electrical service to the PUD, stating their commitment to install electric utilities, may be accepted in lieu of financial assurance guarantees.
- (B) Street & Internal Traffic. Creative design of traffic circulation routes is encouraged. A base characteristic of a residential PUD within the planning jurisdiction of the Town of Calabash is that the internal circulation routes or streets to preserve tree and landscape features. Slower paced traffic movements, restrictions for extremely low speed limits must be consistent with the Town regulations for the subdivision ordinance.

PUD projects are encouraged to enhance the quantity of pedestrian and bicycle friendly activity and to improve the quality of the pedestrian and bicycle experience. Planned Unit Developments must adhere to the Town of Calabash

Subdivision Ordinance requirements for street drainage and paving. All roads must be built to a minimum of the NC Department of Transportation requirements for streets. The minimum right-of-way shall be 35 feet.

Where the development is bound by two or more NC DOT on-system roads, multiple accesses are required. In gated communities, Siren activated gate systems are required for all unattended gates.

Adequately constructed and maintained bike and/or hiking trails can be counted toward the open space requirement. Bicycle lanes and multi-use pathways that extend the minimum right-of-way width must be designed in accordance with the *North Carolina Bicycle Facilities Planning and Design Guidelines Manual*.

- (C) Buffer. A distinct 15' buffer that separates and partially obstructs the view between land-use designations (e.g., as between single-family and commercial or between single-family and multi-family) is required within the PUD. The periphery property line buffer will provide a vegetative screen and will be a minimum of 20 feet and may be included in the periphery property line setback.

Section 15-6. Pre-Application Conference

A pre-application conference between the applicant and the Administrator (or his/her designee) shall occur as the initial step in the PUD approval process. The primary purpose of this conference is to provide assistance and guidance to the applicant for the swift and least interruptible review of the proposed PUD. This conference will provide a mutual exchange of basic information that is needed to facilitate and clarify the PUD approval process. Any effort to secure this conference is the sole responsibility of the applicant.

Section 15-7. Concept Plan

A conceptual land use plan review will be conducted by the Planning & Zoning Board after initial review by the Town of Calabash Administrator to establish proposed land uses and density.

- (A) Once the Administrator completes preliminary review of the proposed Conceptual Land Use Plan submitted by the applicant, the owner/applicant will then be required to present ten copies of the Conceptual Land Use Plan to the Town of Calabash for review by the Administrator and the Planning & Zoning Board. Any costs incurred by the use of subject matter experts and professionals (such as engineers) in this review who are not directly employed by the Town of Calabash will be charged to the applicant.
- (B) Conceptual Land Use Plans must include (at a minimum) major thoroughfares, acreage and development type (i.e., residential, commercial, open space) of each phase, vicinity map, density, Flood Zone(s) and proximity of nearest water and/or sewer main.

- (C) Recommendations and findings listed during the concept stage are preliminary only, subject to modification as a result of information provided during the Conceptual Land Use Plan application approval process for all or each phase(s) of development.

Section 15-8. Master Plan Special Use Permit Approval

- (A) Once the pre-application conference is complete, the applicant will prepare a preliminary Master Plan (Master Plan) of the entire Planned Unit Development. The Master Plan will consist of both a preliminary site plan and a preliminary Utilities plan and in some instances may be submitted with the Conceptual Land Use Plan.
- (B) The applicant will complete and submit to the Town of Calabash Administrator the Master Plan compliance sheet along with the Special Use Permit Application and Filing Fee for PUD review.
- (C) The preliminary Master Plan will consist of and be labeled, at a minimum:
 - (1) major thoroughfares,
 - (2) cross-section of proposed road type(s),
 - (3) recreational space, golf courses, natural or man-made lakes,
 - (4) setbacks, residential areas (single family, multi-family, townhouses, etc.),
 - (5) vicinity map, drainage and topography, approximate delineation of wetlands (404 jurisdictional wetlands) by Corps of Engineers or certified designee,
 - (6) land dedication for public facilities (i.e., public safety facilities, schools, EMS) and acreage (if applicable),
 - (7) environmentally sensitive areas,
 - (8) north arrow,
 - (9) adjacent landowners, and commercial area.

Other relevant information such as the total number of acres within the planned unit development, and the total number of residential and commercial units (broken down into various phases and acreage) based on net buildable area should be included. A proposed timetable of each development phase should also be included.

- (D) The Master Plan shall be accompanied with a preliminary utilities plan which consists of size and location of water and/or sewer lines, fire hydrants, utility easements and rights-of-way, drainage and topography, location and/or type of

solid waste disposal containers and shall be approved by the appropriate designated official appointed by the Town of Calabash.

- (E) A mechanism or instrument guaranteeing adequate maintenance and continued operation of all assured open space (including golf courses) and other private service facilities, shall be submitted as part of the Master Plan requirement and then properly recorded upon Board of Commissioners approval of the Master Plan. Assured open space, and other facilities may be dedicated for public purpose or maintenance. However, NCDOT on-system roads within the PUD are excluded from this provision.
- (F) Once the Administrator completes preliminary review of the Master Plan, the owner/applicant will then be required to present the Master Plan Special Use Permit application as required in Article 12 to the Town of Calabash Planning & Zoning Board for review and recommendation to the Board of Commissioners. (Professional fees necessary for review personnel will be charged to the applicant.)
- (G) The Administrator will notify the applicant in writing when they will appear on the Planning & Zoning Board agenda for Master Plan action.

Section 15-9. Site Specific Plan Approval

- (A) The Planned Unit Development may be completed in phases and all phases must be consistent with the ordinance requirements for landscaping, signage, and parking. If phased, it is the responsibility of the applicant or owner to present a Site Specific Plan(s), in accordance with the approved Master Plan, of each phase prior to development of the phase to the Administrator for approval. Site Specific Plan streets, utilities, and drainage will be reviewed by appropriately designated professional personnel. The cost for such review and recommendation will be the responsibility of the applicant. Approval of the Site Specific Plan will be by the Town of Calabash Board of Commissioners. Such approval will be based upon the recommendation of the Town of Calabash Planning & Zoning Board. The approved Site Specific Plan shall conform to the approved Master Plan according item "G" above. If changes are proposed in the Site Specific Plan, said changes shall be reviewed and may be approved according to the process previously discussed under the section on Master Plan Approval. A complete re-review and analysis of the proposed Master Plan may be required upon receipt of a request for change(s). The applicant/agent will be presented with a PUD compliance sheet to assist with the completing of the Site Specific Plan in a more accurate and efficient manner. The Site Specific Plans are in more detail and must contain or provide evidence of the following information:
 - (1) North point, full right-of-way of all abutting and intersecting streets, including curbs, and center line. Scale, date, and legal description of the proposed site;

- (2) Location, dimensions, and type of any proposed streets, traffic ways, driveways, sidewalks, pedestrian and bike trails, curb cuts, entrances, exits, outdoor lighting systems, storm drainage, sanitary sewer and all other utilities and services;
- (3) Location, dimensions and use of existing and proposed structures and parking areas;
- (4) Location and dimensions of proposed boundaries, setback lines, and easements, open space and recreational areas;
- (5) Landscaping, irrigation and sedimentation control plans;
- (6) Site data breakdowns in square footage (with corresponding percentages) for building coverage, paved areas, green areas, flood hazard areas, lake areas, commercial structures and the gross site area;
- (7) Specific identification of the size, number, and type of proposed units and offices, commercial or industrial usage, total acreage, total units and total density per acre;
- (8) Type and/or location of trash containers;
- (9) Elevations of building types, proposed walls, fences and bridges;
- (10) Evidence of all Federal and State approvals including approved wetlands delineation (404 jurisdictional wetlands);
- (11) Construction plans showing proposed location and size of streets, sidewalks, traffic ways, sanitary sewers, water mains, culverts, retention ponds, drainage structures and other utilities. These plans shall include the existing location and size of the nearest street(s), sidewalk(s), sanitary sewer main(s), water main(s), drainage culvert(s) in which this site specific plan will be tied to. These plans shall be approved by the Planning & Zoning Board, and shall be based, as necessary, on the advice of appropriate experts and professionals. Costs for professional services will be the responsibility of the applicant. Utilities will be installed with the review and agreement of service providers and consistent with all requirements found in the subdivision ordinance.
- (12) If the proposed Planned Unit Development is to be completed in one initial phase, the applicant/owner may submit a Master Plan that contains all of the above mentioned elements of the Site Specific Plan.
- (13) Each phase of a multi-phase PUD shall be developed in acreage in accordance with Master Plan approval and shall not be subdivided and sold for development purposes.

- (14) Once the Site Specific Plan has received recommendation by the Planning & Zoning Board, and all of the required elements for a Site Specific Plan are met, the applicant will submit ten copies of the site specific plan to the Board of Commissioners for final action.
- (15) Land dedicated for public purposes and accepted by the municipality or the County for the construction of public facilities (i.e., public parks, boat ramps, public safety facilities, etc.) must be shown on the Site Specific Plan.
- (16) Once the Site Specific Plan(s) have been received, reviewed and approved by appropriate municipal officials, and the applicant has met all of the required elements of the Site Specific Plan, zoning ordinance, and density requirements, the Administrator shall issue a final approval of the Site Specific Plan so that the applicant or owner may begin the process of having the proposed site plan recorded.
- (17) Following all necessary local approvals of the proposed project, a survey on reproducible medium with the appropriate PUD details shall be created by the applicant and submitted to the Town Clerk for approval. Upon approval by the Town Clerk the plat shall be recorded with the Brunswick County Register of Deeds.
- (18) Financial Assurance Guarantees for each phase are to be approved and accepted prior to recordation of each phase.
- (19) All proposed property owners association agreements, restrictive easements, and maintenance agreements for common areas must be submitted to the Town of Calabash as a part of plan approval.
- (20) If any modifications are made to the Site Specific Plan, the Administrator will require the applicant to follow the specific conditions specified in Section "Amendments to Master Plan and Site Specific Plan."
- (21) The applicant or owner must complete these steps each time a new phase of a PUD is to be developed.

Section 15-10. Amendments to Concept Plan, Master Plan & Site Specific Plan(s)

Any and all amendments to the Concept Plan, Master Plan and/or Site Specific Plan(s) for the PUD shall be subject to the following review procedures:

- (A) The Planning & Zoning Board shall review and make a recommendation to the Board of Commissioners for action on the following:
 - (1) Changes which result in an increase in assigned density for a specific parcel, either residential or non-residential.

- (2) Any changes in land use designation.
- (3) Change in major infrastructure features (i.e., roads/access, sewer, water, storm drainage) of the Master Plan area which are clearly beneficial to the occupants of the Master Plan area. The applicant requesting such change shall notify the property owners association that would be affected by the change of the request and ask that all comments be directed to the Town of Calabash. Proof of such notification shall be provided to the Town of Calabash. If the proposed changes affect the construction of infrastructure systems (roadways, water, sewer and/or stormwater infrastructure or other infrastructure), the Town of Calabash may require a re-review of the Master Plan. If the Town of Calabash Administrator determines that the change does not have the support of the affected property owners association, or may not be in the best interest of the Town or future residents or occupants of the PUD the request for changes may be referred to the Board of Commissioners for review.
- (4) Applicants for Special Use Permit Amendments to approved Master Plans shall submit all information as required for the initial request. The local point of contact for such a request shall be the Administrator. Once an amendment to a Master Plan is approved by the Planning & Zoning Board, the applicant shall provide to the Board of Commissioners an amended copy of the Master Plan for the official record. All special use permits must be approved in accordance with Article 12.

ARTICLE 16. LANDSCAPING AND BUFFER STRIPS

Section 16-1. Objective

The governing body, Planning & Zoning Board, and Board of Adjustment of the Town of Calabash recognizes the importance of the contribution made to the community by the abundance of tree's and vegetation. In fact, the present character of Calabash is dependent largely upon the existing trees and plantings in both publicly and privately owned properties. It is this vegetation that gives the Town an aesthetic appeal that contributes to its growth and economic prosperity. As economic growth occurs, the removal of this valued vegetation sometimes results, contributing to a depletion of a most valuable resource. The Town feels it is necessary to both conserve and restore those valuable assets and declares the objective of this Ordinance to be as follows:

- (A) To encourage the conservation of existing trees and vegetation, when practicable;
- (B) To provide visual and spatial buffering between adjoining and competing uses;
- (C) To enhance the beautification of the Town;
- (D) To enhance property values and protect public and private investment;
- (E) To preserve the identity and environment of the Town;
- (F) To provide a habitat for living things that might not otherwise occur in an urban environment;
- (G) To ensure that planting areas are distributed within developing sites in a manner which will provide shade, buffer noise, and filter glare.

Section 16-2. Landscaping

- (A) General Regulations.
 - (1) The provisions of this section are required to be addressed for all commercial, office and institutional, industrial, multi-family, and townhouse developments proposed in the O/I, CB, HC, and ID districts and all residential subdivisions including clearance of residential lots.

Within the CB (Central Business District) only the requirements for vehicular surface areas shall apply.
 - (2) Whenever the landscaping requirements of this Ordinance are applicable, no site shall be cleared or graded for the purpose of pending construction until a landscape plan including a survey of existing vegetation has been submitted and approved by the Town.

- (3) Landscape plans shall be completed by a person who has knowledge and experience in the field of landscaping. Landscape plans shall be drawn at a scale no less than one inch equals 50 feet.
- (4) Landscape plans shall be submitted to the Inspections Department and shall be reviewed by the Inspections Department in conjunction with the Administrator. Plans shall be approved by the Inspections Departments and the Administrator for uses by right. They shall review and forward recommendations to the appropriate approval authority for special use permit applications.
- (5) The Building Inspector or Administrator shall not issue a permanent certificate of occupancy or certificate of compliance for an approved site plan or part thereof until all applicable requirements of this Section have been satisfied. A temporary certificate of occupancy may be issued for a period not to exceed 90 days, if the Administrator determines there are extenuating circumstances that would affect the seeding or planting of the site.

If a temporary certificate of occupancy is issued, the Administrator may require cash or letter of credit in an amount sufficient to guarantee the completion of all required landscaping.

- (6) The owners and their agents shall be responsible for protecting and maintaining all landscape materials in accordance with the landscape plan approved by the Town.
- (7) To guarantee preservation of all trees to be preserved in the tree preservation policy, the owner(s) are responsible for replacement of tree(s). Should the owner(s) neglect or refuse to abate the condition within 30 days from receipt of the order then the Code Enforcement Officer shall remove the condition. The actual cost incurred by the Town of Calabash in the remedying shall be charged to the owner(s). A statement of the charges shall be submitted to the owner(s) with instruction that the charges are due and payable within 30 days from the receipt thereof. The Town of Calabash shall have the right to inspect the development and/or building site in approved tree preservation policy.
- (8) The cutting down or removal of any oak tree larger than 24 inches in circumference measured at 4.5 feet above ground level shall be prohibited within the town limits due to their historical value on the preservation of natural beautification (see Section 2-2, Landmark Tree Definition). Removal of oak trees may be granted only upon inspection, evaluation, and judgment of the Code Enforcement Officer or town Building Inspector for the following reasons:

- (a) Tree replacement (on another site approved by the Code Enforcement Officer or Building Inspector).
 - (b) The tree is in such position to prevent the reasonable use and development of a property.
 - (c) The tree is deemed dead or diseased beyond repair.
 - (d) The tree considered a safety hazard to the general public or to buildings, foundations, or essential structures that cannot be relocated.
- (9) Exception to the proposed use of canopy trees may be applied to plantings proposed in the vicinity of power lines. The Planning Department, in conjunction with the Administrator, may suggest a suitable substitution in such case.
- (B) Landscape Plan Requirements. All landscaping plans shall, at a minimum, provide the following information:
 - (1) Proposed location of plant material to be retained or planted on site.
 - (2) Planting list that shall include the quantity, size, height, circumference, spacing, and botanical and common names of all plant material to be retained or planted on site.
 - (3) Calculation made by the landscape planner to determine that the 20% landscaping requirement will be met.
- (C) Additional Requirements.
 - (1) Any site requiring a landscape plan shall provide a total landscaped area of not less than 20% of the gross acreage of the site or more if required by other sections of this Ordinance.
 - (2) Minimum height and circumference at planting for the following planting categories shall be as follows:

Canopy Tree	10-12 feet in height; 2-2.5 inch caliper at 4.5 feet above grade.
Understory Tree	6-8 feet in height; 1.5-2 inch caliper at 4.5 feet above grade.
Shrubs	12 inches in height in a 3-gallon pot.
 - (3) Credit may be given for existing trees located between the proposed principle building and the street right-of-way. The retention of viable natural vegetation is encouraged when practicable. No credit shall be given for any

tree which is unhealthy. Credit shall be given on a “tree per tree basis” or “one to one ratio.” A protected ground area corresponding to half the circumference of the spread of the tree as measured radially from the trunk outward shall be provided around trees to be retained for credit.

- (4) Notwithstanding the provisions of this Section, nothing shall be planted adjacent to an approved driveway and street connection which would impede vision between a height of 2-1/2 and 10 feet in a triangular area formed by a diagonal line between a point on the driveway perimeter and the curb line or pavement edge of the street, 25 feet from where they intersect.
- (5) Street Yards.
 - (a) A street yard shall be provided with a minimum depth of 50% of the required front or corner side yard as measured perpendicular to the street right-of-way, provided that no street yard in excess of 15 feet in depth shall be required.
 - (b) Planting requirements. Minimum of one understory tree per every 50 (fifty) linear feet of road frontage; 20 (twenty) shrubs per 100 (one hundred) linear feet of road frontage.
 - (c) Does not apply to CB or R/C districts.
- (6) Vehicular Surface Areas.
 - (a) All vehicular surface areas containing more than 6 (six) spaces shall be landscaped in accordance with the following minimum standards:
 - (i) At least nine percent of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square, rectangle or triangle.
 - (ii) Trees and shrubbery planted pursuant to this section shall include at least one tree a minimum of eight feet in height and six shrubs at least 18 inches in height at planting.
 - (iii) In support of the above, the following standards shall apply to interior plantings:
 - All plantings shall be evenly distributed throughout the parking facility so that no parking stall shall be located farther than 50 feet from the trunk of a tree.

- All interior plantings shall be curbed or otherwise physically protected.
 - Consecutive parking spaces shall incorporate landscape peninsulas no more than 15 spaces apart and at least the ends of all parking rows. Peninsulas shall contain at least 100 square feet in area and at least eight feet in width, measured from back of curb/barrier to back of curb/barrier.
- (iv) For parking facilities containing 5 to 24 spaces or stalls, a perimeter landscape strip may be provided in lieu of interior landscaping, subject to the following requirements:
- The minimum width of such strip shall be five feet.
 - For every 50 linear feet or fraction thereof the perimeter landscape strip shall contain one canopy tree and a continuous row (at least 6) of evergreen shrubs.
 - Where a perimeter landscape strip overlays a street yard or buffer yard required elsewhere in this section, the more stringent requirements shall apply.

All perimeter landscaping strips shall be planted with a combination of live vegetation, groundcover, grass, trees, and/or shrubs. Vegetation planted pursuant to this section shall be maintained to ensure continued growth.

- (v) Where more than 200 parking spaces are required by Code for a development, planting areas may be interspersed throughout the site so that no parking stall shall be located farther than 75 feet from the trunk of a shade tree in a planting area with two or more trees, provided a minimum planting area of 400 square feet or more is provided.
- (vi) The Planning Board may waive all or part of the requirements of this section for any facility which is limited to periodic or intermittent use for vehicular parking, such as parking lots for churches or recreational facilities, provided the facility is completely covered by grass or otherwise presents a landscaped effect.
- (vii) The Planning Board may waive the requirements of this section for temporary parking lots when determined that a waiver is necessary to relieve hardship and will not violate the purposes of this section. Any such waiver shall not exceed one year.
- (b) Each planting area provided in accordance with this Section may be counted as one parking space when computing the number of spaces required by this Ordinance, provided that the number of parking

spaces required by this Ordinance shall not be reduced in excess of 10%.

- (c) Additional or expanded vehicular surface areas shall meet 100% of the requirement of this Section.
- (d) The provisions of this Section shall not apply to vehicular surface areas used for authorized commercial vehicular display, provided all other requirements of this Section are met.

(7) Transition Yards.

- (a) A transition yard is required with a depth of 50% of the required side or rear yard setback to a minimum of eight feet as measured perpendicular to the side or rear lot line.
- (b) Planting requirements: One canopy tree per every 50 linear feet or one understory tree per every 25 linear feet; 20 shrubs per 100 linear feet.
- (c) Whenever a buffer strip is required under Section 16-3 of this Ordinance, the requirement for the buffer strip shall be utilized in lieu of transition yard requirements.
- (d) Parking, driveway, and drive aisle improvements associated with a planned center development may encroach into required transition yards that separate two lots within a planned center, when it can be demonstrated that such an encroachment is necessary for the orderly flow of traffic and parking of vehicles within such a development. Developments shall provide all landscaping as required by transition yards to the greatest extent possible.

(8) Loading/Utility/Open Storage Areas.

- (a) All loading, utility, and open storage areas shall be screened from public right-of-way and adjacent properties by suitable fencing or hedge which shall maintain an opacity of at least 75% year-round.
- (b) Fencing to be used must be a minimum of six feet in height and made of a material compatible with that of the principal building.
- (c) Shrubs, when utilized must be of an evergreen variety, a minimum of three feet in height at planting and a minimum of six feet in height within three years.
- (d) A combination of fencing and shrubbery may be used when the screening objectives are satisfied.

(9) Manufactured Home Park- Screening Adjoining Properties.

- (a) A landscaping area of ten feet in depth shall be located in between the abutting right-of-way and the closest manufactured home. The ten-foot depth cannot be considered as a part of the lot size.
- (b) The property area shall be fenced in accordance with the following standards:
 - (i) A fence, six feet in height, shall be required on each side of the manufactured home park adjoining other person's property. The requirement for the six-foot fence may be waived by the Board of Commissioners when the adjoining property owner signs a notarized statement that the requirement be waived. Waiver of this requirement or the use of a fence not solid in appearance may be allowed if suitable landscaping is provided and approved by the Planning Board in consultation with the Administrator during preliminary approval.
 - (ii) The fence may be located six inches off the property line or adjacent to the ten-foot buffer area.
 - (iii) A six-foot fence consisting of a masonry wall, metal fence of solid appearance or a board fence of solid appearance. Such a wall or fence is appropriate where there is a need to provide security or to discourage trespassers.
 - (iv) The finished fence side must face the adjoining property unless each side of the fence is equal in appearance.

(10) Standards Expressed are Minimum Standards. The standards expressed herein are minimum standards and should not be construed as establishing limitations on the design and submission of landscape plans which contain elements which exceed these standards.

(11) Alternate Means of Compliance. The requirements of this Section have been established as standards which presumptively will result in a better overall appearance of the built environment and enhance or protect the natural resources of the community. The Town recognizes that due to the particular characteristics of a site, the nature of proposed facilities, or other factors, the objectives of this Section may be achieved through unique and creative alternative means of design and implementation.

In light of these considerations, the body or department charged with plan review and approval may approve, in writing or by plan, modifications of these requirements.

- (D) Landscaping on Public Property. It shall be unlawful without approval of the Town for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the Town any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground.
- (E) Trees and Shrubbery in or along Streets and Sidewalks.
 - (1) Citizens may plant trees in front of their lots and along the sidewalks adjacent to their property, but no trees shall be planted in the streets, gutters, or ditches of the Town without Town approval.
 - (2) The cutting, trimming, destruction, lopping of branches or mutilation in any manner of trees or shrubbery within or extending over the street right-of-way of any municipal or state-maintained street by any person is hereby prohibited, except when done under the supervision and according to the direction of the Administrator. In addition, all other public service or utility companies shall also follow the guidelines for acceptable pruning standards and shall notify the Town prior to maintenance within the jurisdiction.

Section 16-3. Buffer Strips

Whenever a buffer strip is required by this Ordinance, such strip shall meet the specifications of this Section, unless different specifications are given in the Section where the buffer strip is required:

- (A) A buffer strip shall consist of a planted strip which shall be a minimum of 15 feet in width, shall be composed of evergreen bushes, shrubs, and/or canopy trees such that at least two rows of coverage are provided from the ground to a height of six feet within six years and foliage overlaps. A buffer strip may also be constructed of stone, block, brick, or other suitable building material, with a minimum height of 6 (six) feet. The 15 feet required for the buffer strip can be included in all normal front, rear, and side yard setback requirements of this chapter.
- (B) Buffer strips shall be required in the following situations, as well as in any others specified in other sections of this Ordinance: whenever a manufacturing, processing, retail, wholesale trade, or warehousing use or public utility installation is established, a buffer strip shall be provided wherever the lot on which the use is established abuts or is across an easement or right-of-way from land zoned for residential use.
- (C) All buffer strips shall become part of the lot on which they are located, or in the case of commonly owned land, shall belong to the homeowners' or property owners' association.

- (D) The buffer strip shall be maintained for the life of the development. Maintenance shall be the responsibility of the property owner, or, if the property is rented, the lessee.
- (E) If a natural screen is already in place which will adequately fulfill the purpose of the buffer strip, the Administrator may, in writing, allow a substitution of all or part of this screen for the buffer strip. Written permission of the Administrator shall be obtained before removing an existing natural buffer in the location of the required buffer strip.
- (F) Where it is clear that a different buffer will protect neighboring property from harmful effects, the Board of Adjustment or Board of Commissioners, for special uses, may modify the buffer up to 5 feet and one row of vegetation.
- (G) For special uses, the Board may require a maintenance bond for the buffers, as a condition of approval.
- (H) In certain situations a fence can be used as a buffer. Such specific situations will be reviewed and approved at the discretion of the Administrator.

Section 16-4. ~~Tree Protection~~ SECTION REPEALED 9-11-2012

~~This article is established in order to lessen air pollution, promote clean air quality by decreasing dust infiltration, reduce noise and glare, prevent soil erosion, improve surface drainage and minimize flooding. It will emphasize the importance of trees as a visual buffer and beautify/enhance undeveloped and developed land. It will also maintain the ambiance of the town; minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface rain water.~~

- ~~(A) — Some clearing of trees may be required to prepare a site for sale or survey or minimal septic evaluation or in order to stake out the proposed building site. A permit to clear such trees shall not be required for pine trees having a diameter less than 6 inches or a circumference less than 18.5 inches at ground level and for oak and hardwood trees having a diameter less than 4 inches or a circumference less than 12.5 inches at ground level.~~
- ~~(B) — All lot clearing not meeting the requirements of this section or if undertaken without a valid permit shall be considered in violation.~~
- ~~(C) — Generalized lot clearing, modification of a drainage system, grading or filling, or bush hogging, not meeting the limits set forth above, requires a development permit. Generalized lot clearing means removal of pine trees having a diameter greater than 6 inches or a circumference greater than 18.5 inches and the removal of oak and hardwood trees having a diameter greater than 4 inches or a circumference greater than 12.5 inches at ground level or outside survey sight lines or exceeding minimum necessary for septic evaluation for undeveloped parcels of land.~~

- (D) ~~A property owner (or his assignee), including a developer shall submit a “Tree Protection Plan” drawn to scale and clearly indicating trees proposed to be removed as well as trees proposed to be saved on the property. Trees proposed to be saved shall be physically marked or tagged on the lot and shall match the “Tree Protection Plan.” Corners of the lot shall be physically marked, based on a property survey. No development permit shall be issued until the code official has reviewed and approved the plan and conducted an inspection of the property to verify accuracy and affirm appropriate marking or tagging of trees to be saved.~~
- (E) ~~All properties being cleared or prepared for the addition of any structure whether permanent or temporary shall conform to the following:~~
- ~~(1) Clearing fill and grade permits must be obtained from the zoning/building inspection department before any land disturbing activity commences. Trees shall be marked via different colored tags indicating which shall be removed and which shall remain via a color tag legend placed on site.~~
 - ~~(2) Before a zoning or building permit is issued, a plan must be submitted and approved that shows the footprint for the principal building, septic system, accessory structures, driveways or any other alterations on the proposed site. Trees meeting the protected requirements as outlined for pine and hardwood/oak trees may not be removed in setback areas unless allowed elsewhere in this section.~~
 - ~~(3) Removal of any tree greater than or equal to 18.5 inches (pine trees) and 12.5 inches (oak/hardwood trees) in circumference at ground level shall be restricted to those which cannot comply with this section.~~
 - ~~(4) Cutting a tree that is not clearly marked on the plan submitted and/or without the approval of the administrator/inspector will be viewed as a serious violation and subject to penalties.~~
 - ~~(5) In addition to the footprint for the principal building, allowances of a 10 foot buffer shall be made for the removal of trees around septic systems, accessory buildings and driveways. There shall also be an allowance of a 15 foot perimeter around the principal building structure where trees may be removed.~~
 - ~~(6) Every reasonable effort shall be made to protect and save any hardwood tree greater than 12 inches in diameter at ground level, particularly oak trees, by placement of the primary structure, driveway, accessory structures, and, if possible, by the placement of the septic system.~~
 - ~~(a) If after meeting the requirements of the preceding paragraph and it is determined that no other reasonable means is available but to cut a tree or trees, then the owner shall be required to plant a canopy tree at least 10-12 feet high and 2.5 inches in diameter at ground level and the~~

same must be approved by the administrator. This tree or trees shall be protected and maintained and afforded the same protection of trees as outlined in paragraph E.3 and E.4.

- (b) ~~Replacement trees as described above shall be indicated on the plan submitted or in the case of existing property structures, shall be indicated on a plan submitted to the zoning/building inspectors to be filed and recorded.~~

(F) ~~All properties containing existing homes shall conform to the following:~~

- (1) ~~Any tree with a circumference less than 18.5 inches (pine tree) and 12.5 inches (oak) at ground level may be cut down without a permit after receiving written approval of the building inspector/Code Enforcement Officer.~~

- (2) ~~Any tree with a circumference of 18.5 inches (pine tree) and 12.5 inches (oak/hardwood) at ground level or greater may only be removed by permit. To obtain a permit, an application containing the specific tree location on the property and reason(s) for removal must be submitted and approved by the building inspector. Acceptable reasons to remove a tree include:~~

- (a) ~~Any tree which is substantially injured by disease, drought, or storm which in the opinion of the inspector is likely to not survive and is likely to cause injury to person or property if not removed.~~

- (b) ~~The tree interferes with a public utility, including but not limited to, electricity, water, sewer line, stormwater, etc. and in the opinion of the inspector, it is not practical for the tree to be trimmed or modified in a similar manner.~~

- (c) ~~For any other reason(s) noted elsewhere in this section.~~

(G) ~~Any person, not being on their own land, who shall without the written consent of the owner willfully commits any damage or injury to or upon any tree, or removes any tree shall be subject to a violation. If appropriate, the offender shall also be responsible for the cost to repair or replace any damaged tree.~~

(H) ~~It is the responsibility of the property owner to maintain all trees required by this Article. Any person, firm or corporation violating this section shall be guilty of a civil violation and shall be fined \$500 per tree. No fine shall be less than \$500. Each day a violation continues shall be a separate and distinct offense. If the stump of a pine tree exceeds 18.5 inches in diameter at ground level a violation has occurred and the civil violation of \$500 per tree based upon the number of stumps shall apply. If the stump of an oak or any other hardwood tree exceeds 12.5 inches in diameter at ground level a violation has occurred and the civil violation of \$500 per tree based upon the number of stumps shall apply. Should~~

~~trees be removed without the Town having been provided any information (i.e. a Tree Protection Plan or tree removal permit application) as to the species and/or size of the trees removed and the stumps have been removed, ground, or covered up (or something of the like) making it unreasonably difficult or impossible to accurately determine the number of trees removed a fine of \$15,000 per acre shall be applied (if half an acre or less is disturbed the fine shall be \$7,500). Should the Town need to contract with a surveyor to determine the acreage, surveyor fees will also be applied to the violator as a part of the fine. The Administrator shall have the authority to negotiate tree replacement in lieu of one half of any monetary fine; the tree replacement value shall be equivalent to the portion of the monetary fine released. In no such case should the Administrator have the authority to release the entire monetary fine for tree replacement. In addition to the civil violations contained in this section other penalties may apply; such as but not limited to conducting work without a permit.~~

Section 16-5. Tree Protection During Construction

Except by permit, construction activities under the drip line of a tree are prohibited. Activities include, but are not limited to, treating or grading, storage of materials or equipment, passage or heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

When applying for a permit, the party doing construction work under the drip line of a tree shall submit a plan showing in full detail the method or means by which a tree or trees will be protected during the entire construction process. The plan shall be subject to the approval of the Administrator or his/her designee. The plan must be approved prior to a permit being issued.

Section 16-6. Wetlands and Riverfront Protection

The purpose of this section is to protect and conserve wetlands by promoting avoidance of alterations to wetlands and the river as the optimum goal or where avoidance is not possible, to limit the alteration of existing wetlands and riverfront and to restore and maintain the integrity of these lands in as near a natural state as possible.

- (A) Buffers shall serve as an ecological transition zone from non-wetlands to wetlands as sediment and stormwater control zone to reduce the impacts of development upon wetland and wetland species.
- (B) A buffer zone of 35 feet from the wetlands or river edge shall be established in which the natural vegetation and trees shall remain untouched, except for possible bush hogging and manicuring.

Section 16-7. Maintenance

- (A) All planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. Any planted material which becomes damaged or diseased or dies shall

be replaced by the owner within 60 days of the occurrence of such condition. If, in the opinion of the Administrator, there are seasonal conditions which will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting), this requirement may be administratively waived until a time certain.

- (B) Nonliving screening buffers shall be maintained, cleaned, or repaired by the owner of the property on which the buffer is located. Such buffers shall be kept free of litter and advertising.

Section 16-8. Authority of Administrator to Treat or Remove Trees on Private Property

No foliage shall be allowed to extend from public or private property into any portion of a street right-of-way below a height of eight feet above the grade of the sidewalk at the property line, or, if no sidewalk grade has been established the height shall be measured vertically above the center of the roadway. The Administrator may cause or order corrective action to prevent any such condition from existing.

Section 16-9. Exemptions

- (A) The Administrator may waive the requirements of Article 16 during an emergency such as a hurricane, tornado, windstorm, tropical storm, flood, or other act of God.
- (B) If any tree shall be determined to be in a hazardous condition so as to (a) immediately endanger the public health, safety, or welfare, or (b) cause an immediate disruption of public service, the Administrator may determine that replacement with additional trees is necessary. In making determinations, the Administrator shall utilize such professional criteria and technical assistance as may be necessary.
- (C) This section shall not apply to single family residences, except for the construction of single-family residences in subdivisions prior to the recording of a final plat for the subdivision.

ARTICLE 17. OFF-STREET PARKING AND LOADING

Section 17-1. Off-Street Parking and Loading Standards

This Article establishes parking standards for all land within the jurisdiction of the Town, and provides for design requirements, required parking spaces for various land uses, handicapped parking, and other administration, enforcement, and amendments thereof.

Section 17-2. General Provisions

- (A) Phased Developments. Each phase of a multi-phase development shall meet all applicable parking standards established in this Section prior to initiation of the next phase.
- (B) Use of Street Right-of-Way. No parking space required by this Section shall be placed within any public or private street right-of-way.
- (C) Spaces Provided Off-Site - Residential.
 - (1) For any residential structure more than two stories high, a parking facility may be located within 400 feet of the structure for which the spaces are required if reasonable pedestrian access can be demonstrated. The title to the parking facility must run with and/or be appurtenant to title to the principal residential structure. Parking space arrangement shall ensure that there will be no encroachment upon or over rights-of-way, sidewalk encroachment upon or over rights-of-way, sidewalks or property lines. Public streets, alleys, walkways or public easements will not be used for or included in the requirements for parking, nor will they be obstructed or blocked or altered in any way from their normal use or intended use.
 - (2) Property disposal that results in a reduction of parking spaces below those required in this Article shall be a violation subject to the provisions of Article 7.
- (D) Spaces Provided Off-Site - Commercial. The purpose of this section is to provide off-site parking standards that will: alleviate congestion in the streets, allow for the efficient storage of motor vehicles, be pedestrian accessible, and concurrently reduce any adverse environmental impacts to the urban area. By reducing glare, noise levels, and air pollution to occupants and residents of adjoining properties and by controlling stormwater drainage and soil erosion, these standards will generally contribute to the public health, safety, and general welfare of the citizenry and will create a more aesthetically pleasing living environment in the Town of Calabash.
 - (1) Parking. Spaces shall be provided so that the parking lot serving the structure is within the zoning districts of central business or highway

commercial. A special application form will be used and supplied by the Administrator which sets forth requirements one must meet.

- (2) Required parking spaces may be assigned to another use in commercial zones contingent on non-conflicting operating times. Dual-use parking will be determined on a case-by-case basis. Minimum parking requirements for the primary business establishment must be met.
- (3) Location on Other Property. If the required automobile parking space cannot reasonably be provided on the same lot as the principal use, it may be provided on a lot within the areas zoned as central business or highway commercial if reasonable pedestrian access can be demonstrated to the Administrator. This parking area shall be held in fee simple by the owner of the use served, or in another manner that assures continued availability for required parking, provided the form of tenure shall be approved by the Town Attorney, Town Administrator or Building Inspector before such use is issued a certificate of occupancy. An updated copy of such parking agreement shall be presented to the clerk each year when renewing their business license.
- (4) The criteria for development of interim commercial parking lots are as follows:
 - (a) No existing significant vegetation shall be removed in order to accommodate the interim commercial parking lot uses.
 - (b) The interim commercial parking facility must be reviewed by the Town Building Inspector.
 - (c) Parking lots may remain grass or use gravel for surfacing; however, these lots must be adequately stabilized for vehicular traffic and approved by the Town Building Inspector or his/her designee. Rail ties, or similar materials, can accommodate delineation of spaces and may be used for wheel stops where striping is not feasible. Fences are permitted with approval of the Administrator.
 - (d) Parking spaces for handicapped persons must comply with all applicable codes.
 - (e) The lots shall comply with stormwater discharge requirements as specified by the Town code.
 - (f) Use of interim commercial parking facilities under these provisions shall terminate after 180 days. If the property owner wishes to continue use as a commercial parking facility, then the parking facility must be brought into compliance with parking lot design standards as specified in the ordinances of the Town of Calabash.

- (E) Maneuvering Room. Maneuvering space for off-street parking shall be located on the lot upon which parking is provided and not on public right-of-way.
- (F) Parking Surface Improvements.
 - (1) The parking surface on all on-site and off-site parking lot(s), with the exception of detached single-family or duplex housing units, shall be dust free, all-weather material (e.g. gravel, concrete, asphalt, paving stones, or approved equal). The paving surface shall be delineated with parking stalls and locations of handicapped parking spaces that are in compliance with ADA requirements.
 - (2) Residential parking areas or driveways shall be properly delineated and surfaced with concrete, asphalt, coquina, or gravel.
 - (3) Proper drainage plans shall be designed and provided prior to approval and paving. (See Section 17-3. Requirements for Parking Lots.)
 - (4) Any alternative paving materials not stated in (1) above must be approved prior to permitting.
- (G) Access to public thoroughfares shall be from a driveway and not directly from a parking space. Ingress and egress shall be by a forward motion of the vehicle.

Section 17-3. Requirements for Parking Lots

Where parking lots for more than five cars are permitted or required, the following provisions shall be complied with:

- (A) The lot may be used only for parking and not for any type of permanent designated loading, sales, dead storage, repair work, dismantling or servicing, but shall not preclude convention and festival exhibits or parking of rental vehicles.
- (B) All entrances, exits, barricades at sidewalks, and drainage plans shall be approved and constructed before occupancy.
- (C) Landscape Requirements. (See Article 16.)
- (D) Only one entrance and one exit sign no larger than two square feet prescribing parking regulations may be erected at each entrance or exit.
- (E) Required off-street parking areas, including drives and access ways, shall be surfaced with an all-weather surface material.
- (F) Where parking or loading areas are provided adjacent to a public street, ingress and egress thereto shall be made only through driveways not exceeding 25 feet in width at the curb line of said street, except where the Administrator finds that a

greater width is necessary to accommodate the vehicles customarily using the driveway.

- (G) Where two or more driveways are located on the same lot, the minimum distance between such drives shall be 30 feet, or one-third of the lot frontage, whichever is greater.
- (H) No driveway shall be located closer than 25 feet to any street intersection and shall meet other provisions of the UDO.
- (I) Lighting. Parking areas serving establishments that operate during evening and nighttime hours shall be adequately lighted. All lighting shall be shielded so as to cast no light upon adjacent properties and streets.

Section 17-4. Manufactured Home and Trailer Parking and Storing

It shall be unlawful to park or otherwise store for any purpose whatsoever any manufactured home or trailer within any zoning district except as follows:

- (A) At a safe, lawful and unobstructive location on a street, alley, highway or other public place, provided that the trailer or manufactured home shall not be parked overnight.
- (B) Within a manufactured home park.
- (C) On any other lot or plot provided that:
 - (1) A storing permit for any manufactured home to be parked or stored for longer than seven days shall be obtained from the Administrator.
 - (2) A manufactured home shall not be parked and used other than in an approved manufactured home park or in the MFH-II district, or unless obtaining a temporary occupancy permit.

Section 17-5. Access

Where parking lot or parking structure access is to or from a street, channelization or storage space shall be provided sufficient to prevent queues into the public street, in accordance with minimum required specified below:

Traffic Generator Required (type)	Minimum On-Site Storage* Queuing/Stack Space (number of vehicles)
Car Wash (auto)	8 per aisle
Drive-up Windows (excluding food service): Retail/service Financial service	4 per aisle 6 per aisle

Parking Lots/Structures:	
1 - 30	1 per access point
31 - 50	2 per access point
51 - 100	3 per access point
101 - 200	4 per access point
Over 200 spaces	5 per access point
Parking Lots/Structures with Access Gates/Controls	
1 - 50	2 per access point

*Minimum required storage of vehicles is to be accommodated between the edge of the driveway entry into street right-of-way and the first contact point for sales (i.e., menu board, and the like.)

Section 17-6. Parking Space Dimensions

(A) Angled Parking.

- (1) Parking stalls intended for the use of standard size automobiles shall have a minimum size of nine feet by 20 feet for angled parking. All angled parking stalls shall be provided with the minimum aisle width specified below depending on their angle of entry. This width is designed to accommodate traffic flow within the parking area and allow reasonable room for maneuvering in and out of parking stalls. Parking stall depths may be reduced by 2-feet if a 2-foot overhang is provided.

- (2) Aisle dimensions for various parking angles:

- (a) One-way Traffic. See Appendix I.

Degree of Angle	Aisle Width
30°	10 feet
45°	12 feet
60°	18 feet
90°	20 feet

- (b) Two-way Traffic. Aisle width 22 feet.

- (B) Parallel Parking. Parallel parking stalls for standard size automobiles shall have a minimum size of 8 (eight) feet by 22 (twenty-two) feet. All parallel parking stalls shall have a minimum of 8 (eight) feet for maneuvering space in one-way traffic and 22 (twenty-two) feet maneuvering space in two-way traffic.
- (C) Packed Parking. When conducive to the type of business which it serves and when approved by the Town of Calabash for festival events, packed parking is approved upon the following conditions:

- (1) Packed parking shall only be allowed where those parking in this type of manner arrive together and depart together within a 30-minute window for the purpose of pre-scheduled tour or similar event.
- (2) Maximum depth of packed parking shall be 4 rows with aligned 9' wide parking spaces. Under no circumstance shall a vehicle have to back through or pull through more than one row to reach a traffic aisle with two-way travel. All access to the packed parking are shall occur on the business property unless a written and certified agreement is provided by the adjoining property owner(s).
- (3) Packed parking shall not constitute more than 67% of the required parking spaces for the business and shall not be located within 60-feet of the building or structure which it serves or within 50-feet of any other habitable buildings. Location of packed parking shall not interfere with any emergency vehicle lanes and is subject to annual approval by the Fire Inspector.
- (4) Employees shall be able and are encouraged to park in the packed parking area and are exempt from having to meet requirement (2) above provided:
 - (a) At least one employee vehicle is available at all times for immediate use.
 - (b) The above vehicle and driver shall remain on site during the time packed parking is used.
- (5) If the business only requires packed parking from time to time, then packed parking shall only need to be used during those occasions. It is the responsibility of the business owner to notify and direct its customers when packed parking is used.
- (6) The Business owner shall provide to the Town a site plan showing both a packed parking layout and a standard parking layout of the parcels involved.
- (7) Packed parking shall not be used at off-site parking unless specifically approved by the Board of Adjustment.

Section 17-7. Signage

- (A) Handicapped Parking Spaces. Handicapped parking spaces shall be provided in conformance with the applicable North Carolina General Statutes including applicable provisions of the North Carolina State Building Code.
- (B) Handicapped Parking Signage. Handicapped parking signage shall conform to the North Carolina State Building Code, Volume 1-C, commonly referred to as the Accessibility Code.

Section 17-8. Minimum Loading Requirements

Off-street loading shall be provided and maintained as specified in the following schedule:

- (A) For uses containing a gross floor area of less than 20,000 square feet, each off-street loading space shall have minimum dimensions of 15 feet in width, 30 feet in length, and 14 feet clear height as a minimum.
- (B) For uses containing a gross floor area of 20,000 square feet or more, each off-street loading space shall be 15 feet in width, 45 feet in length, and 14 feet clear height as a minimum.
- (C) Uses which normally handle large quantities of goods, including but not limited to industrial plants, wholesale establishments, storage warehouses, freight terminals, hospitals or sanitariums, and retail sales establishments shall provide off-street loading facilities in the following amounts:

Gross Floor Area (square feet)	Minimum Number of Spaces Required
5,000 - 20,000	1
20,001 - 50,000	2
50,001 - 80,000	3
80,001 - 125,000	4
For each additional 45,000	1 additional

- (D) Uses which do not handle large quantities of goods, including but not limited to office buildings, restaurants, funeral homes, hotels, motels, apartment buildings, and places of public assembly, shall provide off-street loading facilities in the following amounts:

Gross Floor Area (square feet)	Minimum Number of Spaces Required
5,000 - 80,000	1
80,001 - 200,000	2
200,001 - 320,000	3
320,001 - 500,000	4
For each additional 180,000	1 additional

Section 17-9. Specific Parking Standards

- (A) Residential.

Use Group	Spaces Required
Single-Family; Manufactured Homes; Duplexes	2 spaces/unit

Multi-Family; Townhouses; Condominiums	1 space/unit, efficiencies and one-bedroom 2 spaces/unit, two bedrooms 2 spaces/unit, three bedrooms 1 space/4 units, additional parking
Condotels	Same as multi-family residential for living units 1 space/3 employees on largest shift 1 space/3 patrons to maximum capacity of each meeting or banquet room 50% of spaces otherwise required for accessory uses; restaurants, lounges
Group Dwellings	1 space/bedroom or sleeping room
Hotels, Motels	1 space/room or suite 1 space/every 5 rooms or fraction 1 space/3 employees on largest shift 1 space/3 patrons to maximum capacity of each meeting/banquet room 50% of spaces otherwise required for accessory uses; restaurants, lounges
Manufactured Home Parks	2 space/manufactured home 1 visitor space/4 manufactured homes
RV Parks, Campgrounds, Recreational Rental	1.5 spaces/RV site or dwelling unit 1 space/employee

(B) Commercial.

Use Group	Spaces Required
Agricultural Use	1 space/employee on largest shift
Art Gallery	1 space/300 square feet of gross floor area
Auction Sales	1 space/2 seats or 2 spaces/100 square feet of gross leasable area, whichever is greater
Automatic Teller Machine (ATM)	2 spaces/machine
Automobile Laundry/Car Wash, Full Service	1 space/2 employees on largest shift 1 space/manager 12 stacking/queuing spaces per day
Automobile Laundry/Car Wash, Self Service	4 stacking spaces/washing stall 2 drying spaces/washing stall
Automobile Repair and/or Body Work Services	1 space/employee on largest shift 1 space/service bay
Automobile Parts and Accessory Sales	1 space/400 square feet of leasable area, plus 1 space/employee on largest shift
Automobile Sales & Service	1 space/150 square feet of gross retail space 1 space/employee on largest shift

Automobile Service Station	1.5 spaces/fuel nozzle. In addition, 1 space shall be provided for each 50 square feet of usable floor area in the cashier's and office areas. In no instance shall such a facility provide less than three parking spaces. In no instance shall required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.
Banks	5 waiting spaces/drive-in window 1 space/employee on largest shift 1 space/150 square feet of gross floor area
Bars	1 space /3 patrons to maximum capacity 1 space/employee on largest shift Minimum of 1 handicapped space per establishment required—must comply with UDO §17-2(D)(4)(d) (i.e must comply with current NC State Accessibility Code)
Barbering and Hairdressing Services	2 parking spaces/beauty or barber chair
Bicycle Sales and Repair	3 spaces/1,000 square feet of gross floor area
Books and Printed Matter, Distribution	4.5 spaces/1,000 square feet of gross floor area
Commercial	1 space/250 feet of gross retail area
Commercial/Recreational Uses	1 space/4 patrons 1 space/2 employees on largest shift
Convenience Stores	1 space/200 square feet of gross floor area
Drive-in Theater	1 space/automobile station 1 space/employee
Dry Cleaning and Laundry	1 space/200 square feet of gross floor area used by the general public
Exterminating Services	3 space/1,000 square feet of gross floor area
Fast Food Restaurant	1 space/50 square feet of gross floor area 1 space/employee on largest shift
Funeral Homes	1 space/4 chapel seats 1 space/funeral vehicle
Grocery or Supermarket	1 space/200 square feet of gross floor area
Health Club/Gymnasium	1 space/100 square feet of gross floor area
Kennel Operations, Care	1 space/400 square feet, but no fewer than 4 spaces
Nursery or Garden Supplies	1 space/employee 1 space/200 square feet inside and outside sales area
Office Use	1 space/275 feet of gross floor area

Outdoor Theater	1 space/3 patrons to maximum capacity
Personal Services	1 space/200 square feet of gross floor area basement, 1st floor 1 space/300 square feet of gross floor area above 1st floor 1 space/employee on largest shift
Post Office	1 space/400 square feet of gross floor area 1 space/2 employees on largest shift
Shopping Center, Regional	1 space/400 square feet of gross floor area
Theaters, Auditoriums, Stadium, Coliseum	1 space/3 seats, fixed seating 1 space/150 square feet gross floor area, not fixed seating 1 space/employee on largest shift
Travel Agency	4 spaces/1,000 square feet

(C) Restaurants; Lounges.

Use Group	Spaces Required
Nightclubs, Lounges	1 space/3 patrons to maximum capacity 1 space/employee on largest shift
Private Clubs	1 space/3 persons to maximum capacity 1 space/employee on largest shift
Restaurant, Standard	1 space/employee on largest shift Spaces for 30% of maximum seating capacity

(D) Indoor/Outdoor Recreation.

Use Group	Spaces Required
Arcades, Billiard Parlors	1 space/200 square feet of gross floor area 1 space/employee on largest shift
Bingo Parlor	1 space/3 seats or 1 space/100 square feet of total floor area, whichever is greater
Bowling Alley	1 space/employee on largest shift 5 spaces/lane 1 space/150 square feet of gross floor area
Community/Recreation Center	1 space/employee 1 space/4 seats or 1 space/50 SF of useable seating area
Golf Courses	5 spaces/hole 1 space/employee on largest shift 50% of spaces normally required for accessory uses

Golf Driving Range	1.5 spaces/tee 1 space/employee
Golf, Par Three	40 spaces/9 holes 1 space/employee on largest shift
Marina, Marina with Landing	3 spaces/4 slips, 10% of spaces large enough for cars with boat trailers 1 space/employee on largest shift
Marinas/Docks/Piers	1 space/employee 1 space/slip 1 space/4 seats on tourist boat, head boat, charter boats, shrimp boats, and all boats for hire 1 space/4 dry storage
Miniature Golf	3 spaces/hole 1 space/employee on largest shift
Outdoor Recreation	1 space/4 patrons at maximum capacity
Racquetball, Handball	4 spaces/court 1 space/employee on largest shift
Riding Stables	1 space/3 stalls 1 space/employee on largest shift
Skating Rink, I/R	1 space/200 square feet of gross floor area 1 space/employee on largest shift
Swimming Facility	1 space/75 square feet of gross water area 1 space/employee
Tennis Courts	3 spaces/court 1 space/employee on largest shift

(E) Industrial/Warehousing.

Use Group	Spaces Required
Extraction Uses	1 space/employee on largest shift
Heavy Industrial	1 space/company vehicle left on premises 1 space/employee on largest shift
Junk Yards	1 space/1,000 SF gross land area 1 space/employee on largest shift
Light Industrial	1 space/vehicle stored on site 1 space/employee on largest shift
Mini-Warehouse	1 space/15 storage cubicles 2 spaces/manager's residence 1 space/40 cubicles with a minimum of 3
Truck Terminal	1 space/employee 1 space/truck parked on site
Telecommunication Towers	4 spaces/1,000 square feet

Warehouse	1 space/4,000 square feet of gross floor area 1 space/employee on largest shift
-----------	--

(F) Schools/Camps.

Use Group	Spaces Required
Camps, Day or Youth	1 space/employee 1 space/camp vehicle LOP
College	1 space/staff member 1 space/classroom 1 space/2 students during largest class period 1 space/100 square feet main auditorium floor space
Day or Nursery School	1 space/teacher and employee 1 space/9 children
School, Commercial and Trade	1 space/2 students 1 space/employee (teachers) at capacity class attendance period
Schools, Elementary and Junior High	1 space/teacher and staff member 1 space/classroom
Schools, Senior High	1 space/teacher and staff member 1 space/classroom 1 space/100 square feet main auditorium floor space 1 space/5 non-bussed students

(G) Medical.

Use Group	Spaces Required
Drug and Treatment Centers	1 space/two beds 1 space/staff member
Hospital or Sanitarium Care	1 space/doctor and employee on largest shift 2 spaces/room
Medical/Dental Offices Alcohol	5 spaces/doctor 1 space/employee on largest shift
Nursing Homes/Assisted Living	2 spaces/6 patient beds 1 space/employee on largest shift 1 space/staff member and visiting doctor
Veterinary Offices	5 spaces/doctor 1 space/employee on largest shift

(H) Institutional.

Use Group	Spaces Required
-----------	-----------------

Cemeteries	2 spaces/gross acre 1 space/employee
Churches	1 space/2 seats in main assembly room
Libraries or Museums	1 space/300 square feet of gross floor area 1 space/employee
Monasteries, Convents	1 space/6 residents 1 space/employee 1 space/5 chapel seats (if possible)
Public Service	1 space/employee on largest shift 1 space/vehicle stored on site

(I) Special Development.

Use Group	Spaces Required
Theme Parks, Unusual Land Uses, Others	Parking spaces required will be determined by the Planning Board

ARTICLE 18. SIGN REGULATIONS

Section 18-1. Purpose

The purpose of the Article is to provide fair and comprehensive regulations that will:

- (A) Provide a pleasing overall environmental setting and good community appearance which is deemed vital to tourism and to the continued economic attractiveness of the Town;
- (B) Allow signs appropriate to the planned character of each zoning district;
- (C) Promote highway safety, the welfare and comfort of travelers, the convenience of the public and the enjoyment of public travel;
- (D) Restrict signs that overload the public's capacity to receive information and increase the probability of accidents by distracting attention or obstructing vision;
- (E) Protect property values within the Town and its extraterritorial area;
- (F) Determinations of applicability of this Article and related articles shall be made by the Administrator.

Section 18-2. Scope

The provisions set forth in this Article shall apply and govern in all districts and shall regulate the construction, erection, alteration, use, location, size and height of all signs, regardless of their construction cost. The provisions of this Article shall not apply to:

- (A) Signs not visible beyond the boundaries of the lot or parcel upon which they are situated or from any public thoroughfare, right-of-way.
- (B) Traffic signs, and all other signs erected or maintained by a municipal or governmental body or agency, and including danger signs.
- (C) Temporary signs customarily associated with festivals or occasions recognized by the Town Board during the duration of these festivals.

Section 18-3. North Carolina State Building Code Volume 1A

North Carolina State Building Code Appendix H, Signs and Outdoor Displays, is included in its entirety as part of this article. Note: Any sign referenced in the code book does not constitute acceptance in the UDO.

Section 18-4. General Provisions

It shall be illegal for a sign to be placed in the Town or extraterritorial jurisdiction except as provided in this Article.

(A) Traffic Hazards and Sign Illumination

- (1) No flood lights shall be utilized as a part of a sign illumination system which impairs driver vision.
- (2) No sign illumination system shall contain or utilize any beacon, spot, search or stroboscopic light or reflector which is visible from any public right-of-way or adjacent property, nor shall such lights be operated outside, under any circumstances, except by authorized public agencies.
- (3) No sign shall be animated, revolve, or move in any way.
- (4) No sign shall obstruct the view of motor vehicle operators entering a public roadway from a driveway, street, or alley.
- (5) No sign shall be permitted which may be confused with an official traffic sign, signal or devise, or any other official sign which uses the words “stop,” “warning,” “danger,” “caution,” or similar words implying the existence of danger or need for stopping or maneuvering.

(B) Design Standards

- (1) All permanent signs shall be constructed of durable materials and designed to meet all applicable requirements of the North Carolina State Building Code inclusive.
- (2) A sign shall not be erected, constructed, or maintained so as to obstruct any fire escape or any window or door opening used as a means of fire escape, or any window or door or opening used as a means of egress.
- (3) All projecting signs at the intersection of building corners shall intersect at right angles to the building front.
- (4) No projecting sign shall extend above the roof line or the parapet wall, nor shall it project more than 4 feet beyond the wall face of the building.
- (5) Buildings with 2 or more stories may not locate projecting signs higher than 24 feet above grade.
- (6) No wall sign may extend above the parapet walls.

- (7) No wall sign may extend above the lower eave line of a building with a pitched roof, except if the roof is a mansard-type roof, in which case the sign may be attached flat against, but not extend above, the roof.
- (8) All permanent signs shall be anchored or affixed and constructed as required by the N.C State Building Code.
- (9) Setbacks. In the case of a structure erected to the property line, a wall sign shall be erected flush to the building and no lower than 8 (eight) feet above sidewalk or grade. Unless specifically exempted herein, signs shall be located entirely within the property lines and situated so no traffic hazards are created.
- (10) Signs in Disrepair and Unsafe Signs
 - (a) All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair and perpetually maintained in safe condition, free from deterioration, defective or missing parts or peeling or faded paint, and able to withstand the required wind pressure.
 - (b) The administrator may order the repair or removal of such signs that are not maintained in a safe condition and in good repair in accordance with the provisions of this Article. If the administrator shall find any sign in violation of this section, then he shall give notice to the property owner via certified mail specifying the location of the hazard or deteriorating sign, what needs to be done to render the sign safe and in good repair, and that in the event the same is not done by the owner that the Town will remove the sign at the expense of the owner of the property upon which it is located. Service of the written notice shall be made in person or via certified mail. Service shall be deemed complete upon delivery; in the event the address of the person to be notified is unknown or the notice which has been mailed has been returned, such notice may be served by posting the same on a conspicuous place on the premises on which the nuisance is located and by advertising said notice in the local newspaper, in which event service shall be deemed complete after the preceding is accomplished.
 - (c) The person so notified shall remove or initiate alteration of such sign within 14 days of such notice, and such sign condition shall be completely rectified within 60 days. If the person(s) so notified fail or refuse to remove or alter such sign within the time period specified, then the administrator may cause such sign to be removed at the expense of the owner of the property upon which it is located.
 - (d) Should any sign become unsafe the owner thereof, or the person or firm maintaining the same, shall upon written notice from the Town Administrator forthwith in the case of immediate danger, and in any

case within 14 (fourteen) days, remove such sign or secure the same in a manner to be approved by the administrator, in conformity with the provisions of this ordinance. If such order is not complied with within 14 (fourteen) days, the administrator may remove such sign at the expense of the owner or lessee thereof.

- (e) In the event any sign is damaged such sign may be restored, reconstructed, or repaired.

Section 18-5. Prohibited Signs

(A) Signs Within or Near the Street Right-of-Way and Public Ways

- (1) No signs shall overhang or be erected in any street right-of-way. Traffic regulation, information or warning signs erected by the State Department of Transportation or signs erected by the town are exempt.
- (2) No sign shall be permitted in the vertical area between two and one-half feet and 10 feet above the adjacent crown of the road unless the sign is set back 20 feet or more from the adjacent street edge.
- (3) This section shall not apply to any sign, signal or other information device erected or placed by a governmental agency, nor to any mail box or postal receptacle required and approved by the postal service.
- (4) Signs, including banners, painted on or attached to trees, fences or fence posts, and telephone or utility poles, or signs on or attached to rocks or other natural features.
- (5) Any commercial identification or advertising on refuse containers.
- (6) Pavement markings except those of a customary traffic-control nature.
- (7) Signs attached to or painted on piers and sea walls except for one on-premises building identification sign not to exceed 6 square feet per establishment. Signs on buildings located on piers shall not be prohibited, but shall conform to the other provisions of this section.
- (8) Off-premises signs.
- (9) Portable signs and outdoor displays and decoration, such as but not limited to, balloons, streamers, spinners, and other similar types of lighter-than-air objects and any other outside advertising display fastened in such a manner as to move upon being subjected to air are prohibited except as provided for under Section 18-6.
- (10) Any sign or outdoor advertising display which contains obscene statements.

- (11) The use of decorative lighting except as seasonal decorations.
- (12) Any sign located or designated so as to intentionally or effectively deny an adjoining property owner reasonable visual access to an existing sign.
- (13) Obsolete and abandoned signs that advertise or pertain to a business, product, service, event, activity, or purpose which is no longer conducted, available, not been in use for 3 months, or any sign structure that no longer displays any sign copy.
 - (a) Signs associated with a business that is normally open on a seasonal basis shall not be considered to be obsolete or abandoned, provided there is a clear intent to continue operation of the business within nine months.
 - (b) When any sign is relocated, made inoperative, or removed for any reason except for maintenance, all structural components including the sign face and sign structure shall be removed or relocated with the sign. All structural; components of freestanding signs shall be removed to the ground.
 - (c) The administrator shall have the right to remove such signs if the owner fails to remove such sign with 14 days of written notification, or if the owner cannot be located; and the costs shall be collected as provided for real and personal property taxes.
- (14) Vehicle signs. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. This does not include temporary construction sites vehicles on active construction sites. Motor vehicles are prohibited from parking or navigating around the Town of Calabash while displaying any movable, changeable copy that advertises for the owner of the vehicle or for another business, product, or service not associated with the owner of the vehicle except as described below:
 - (a) Such vehicles may be parked, temporarily, for routine service to the vehicle. However, such vehicle shall discontinue any movement of copy during the said service visit.
 - (b) Such vehicle may be parked in one spot for no more than one hour in one 24-hour period. However, such vehicle shall discontinue any movement of copy during the stop.
- (15) Animated signs.
- (16) Name-brand/off brand off-premise outdoor signs such as, but not limited to, ice cream, milk, and cigarettes.

- (17) Neon “open” signs attached to any on-premises freestanding sign.
- (18) Suspended signs.
- (19) Any other type or kind of sign which does not comply with the terms, conditions, and provisions contained in this section.
- (20) Signs painted on roofs.

Section 18-6. Signs for Which a Permit is Not Required

- (A) Traffic, directional, warning or information signs authorized by any public agency.
- (B) Real estate signs advertising the sale, rental or lease of all or a portion of the premises on which it is displayed during the sale, rental or lease period, subject to the following restrictions:
 - (1) Non-residential land uses, 20 square feet maximum area for each side (2 side maximum), 8 feet maximum height, and must be placed no less than 10 feet from the curb or street edge. One such sign allowed per street frontage.
 - (2) Residential land uses, 6 square feet for the first dwelling unit plus one square foot for each additional unit with 20 square feet maximum area, maximum height four feet for one unit, 8 feet for multi-family. One such sign allowed per street upon which premises abuts and the sign shall be located no less than 10 feet from the curb or roadway.
- (C) Private street or road name signs.
- (D) “No trespassing,” “no dumping,” “no loitering,” and like signs not exceeding 2 (two) square feet in area.
- (E) “Open house” signs, provided there are not more than one such sign per house on the same premises, the maximum area is three square feet, and the maximum height above ground is four feet. Such signs are permitted only at residential locations. Open house signs can be erected 3 (three) days in advance. Signs are to be removed immediately after the open house.
- (F) Residents are permitted 2 yard/garage sale signs. All signs must be removed at the conclusion of the sale. No signs can be placed on any property other than the site of the sale. Two off-site directional signs are permitted but only during the hours of the sale. Signs cannot be posted on utility poles. Offsite signs must be removed at the close of the yard sale each day the event is held. (Reference Chapter 112 of the code book for additional details.)

- (G) Holiday season decorations, provided no business identification or commercial message is contained therein.
- (H) Construction signs. Only one sign per street frontage shall be allowed per site. The sign can have the name of the project as the leading announcement. All other announcements such as developer, contractors, subcontractors, architects, and financing shall be included as subsection only. Overall size of a sign shall not exceed 40 square feet. The sign shall be located no less than 10 feet from the curb or edge of roadway and shall not protrude into any public right-of-way. The sign shall be removed from the site prior to issuance of final Certificate of Occupancy.
- (I) Temporary window signs, except such shall not exceed 25% of the gross glaze window area. No permit is required.
- (K) Flags are permitted.
- (L) Motor vehicle or vehicle “for sale” signs are permitted; provided, however
 - (1) “For sale” sign shall be affixed to the motor vehicle or vehicles and shall not exceed 18” x 18” in size.
 - (2) Shall not be parked on a public street or public property overnight.
 - (3) Shall not be parked overnight on other than the property owned or occupied by the motor vehicle (s) owner.
 - (4) Shall not be more than one motor vehicle or vehicles or combination of the two “for sale” on any one premise at the same time; except, however, new or used car lots are exempt.
- (M) One or more signs applied to a windowpane giving store hours or the name (s) of credit card, when the total area of any such sign(s) together does not exceed 4 square feet.
- (N) Certain signs to be posted for a limited period of time only (not to be permanently placed) Signs that meet this requirement include, but are not limited to (at the discretion of the administrator);
 - (1) Vehicular displays, mobile promotional advertising statuary, and wheeled conveyances.
- (O) Business identification signs refurbishment, repainting, and refacing with no structural change and no enlargement.

Section 18-7. Signs that Require a Permit – No Fee

No such signs shall be installed prior to receiving a no fee permit.

- (A) One-site private traffic directional signs provided the sign(s) shall be located within a zone of from 4 feet to 10 feet from the edge of the curb or the edge of the traveled portion of any unpaved road. Must be elevated no higher than 30 inches above the general level of the roadway and may not exceed 4 square feet for each sign. A maximum of one such sign shall be permitted at each point of ingress and egress.
- (B) Non-contiguous parking signage is allowed on non-contiguous parking sites provided they comply with the aforementioned location and dimension requirements. Limited business identification can be included.
- (C) Campaign signs placed are subject to the following:
 - (1) Can be placed 60 days prior to the election.
 - (2) Shall not be placed within a public right-of-way.
 - (3) Shall not be attached to trees, fences, or utility poles.
 - (4) Shall not be larger than 16 square feet in area.
 - (5) Campaign signs placed in violation with (1) through (5) above may be removed by the Town without notice.
 - (6) Violation fees apply to federal, state and county election signs only.
- (D) Temporary signs customarily associated with festivals or other occasions recognized by the Town Board. Such signs shall require a permit upon which shall be specified the period of time such temporary signage shall be allowed.
- (E) Temporary business signs or banners of a non-illuminated nature announcing or advertising the opening of a new business or going-out-of-business sale. Such sign relating to the opening of a new business shall be limited to 30 days prior to and 30 days following the business opening. Such sign relating to going-out-of-business sale shall be limited to 30 days except however; such sign shall be removed within 72 hours following the closing of the business.
- (F) Portable non-illuminated signs announcing any public, charitable, educational, or religious event or function, provided such signs are located entirely within the premises on the institution, set back no less than 10 feet from the property line, do not exceed a sign area of 40 square feet, and do not constitute a safety hazard in the opinion of the administrator. Such signs shall be allowed no more than 30 days prior to the event and must be removed within 48 hours after the event or function. If building-mounted, these signs shall be flat wall signs and shall not project above the roof line. If ground mounted, the top shall be no more than 8 feet above ground level. No fee permit is required.

- (G) Sun shades, while permitted, cannot contain any business names, text, pictorial display or advertising.
- (H) Certain signs to be posted for a limited period of time only (not to be permanently placed) Signs that meet this requirement include, but are not limited to (at the discretion of the administrator);
 - (1) A-Frame Signs. Free-standing A-Frame signs shall be permitted, one per business. Such signs shall only be permitted during business hours (signs must be removed when the business is closed). Only non-illuminated A-Frame signs are allowed – no other types of temporary signs are permitted. A-Frame signs shall not exceed 3-feet by 4-feet (12-square feet) per side. No signs shall be placed in the street right-of-way, in vehicular line of sight, and no additional signage/balloons/other devices shall be affixed to the A-frame sign.

Section 18-8. Banners

Banners are permitted, one per business at any one time, but shall not be displayed outside any business without first obtaining a permit (fee required). Permits are only available for a 30-day period from the date of the permit. A maximum of four (4) banner permits may be purchased by any one business in a calendar year and they may be issued consecutively or in intervals. The maximum size is 60 square feet and shall not be capable of illumination. Banners must be maintained and be cosmetically appealing. No banner shall be placed in a public right of way or in a manner that impedes a driver's line of sight. Swooper flags sometimes referred to as feather flag banners shall be considered banners and are subject to the aforementioned provisions.

Section 18-9. Required Signs

So as to provide efficient emergency vehicle operations, as well as to aid in the location of homes, businesses, and other properties with addresses, this section requires each detached building to display its street address number in a prominent fashion so as to allow the number to be clearly readable from the street on which the building has primary frontage. Sign size shall not exceed 2 square feet. Minimum height of numerals shall be 4 inches.

Section 18-10. Application for Permit

- (A) All applications for sign permits shall be made to the Town. The following information shall be submitted with an application for a sign permit:
 - (1) Identification of ownership of property on which the sign is to be erected, or written authorization of the owner of the property and tax map number of property.
 - (2) Name, address, and telephone number of the owner of the sign and the name, address, and telephone number of the sign maker.

- (3) Site plan sketch showing the location of the sign with respect to the property and right-of-way lines and any buildings, parking areas, lighting, and other improvements.
 - (4) Exact size, shape, configuration, design, area, height, nature, number, and type of sign to be erected. All signs require installation details to insure they comply with 130 mph wind zones and related codes.
 - (5) The contracted value of the sign, material, labor, and installation.
 - (6) Any other information, specifications, photographs, or the like, deemed necessary by the Building Inspector or Administrator in order to assure compliance with the town ordinances and the requirements of this North Carolina State Building Code.
- (B) If the application is denied, the applicant shall be notified in writing of the reason or reasons for the denial of a permit. Appeals shall be as established in Article 5.
 - (C) Fees. Before issuing a permit, the fees, where required, shall be collected. A schedule of such fees is maintained by the Town Clerk.
 - (D) Double Fees. Should a person, firm or corporation actually begin any work for which a permit is required by this section without taking out a permit, the applicant may pay, in addition to the fees above described and provided, an additional amount equal to 100% of the fees above prescribed and may be subject to the penalty provisions set forth in Article 7.
 - (E) Inspection. The Building Inspector or Administrator shall require inspection of any construction work to ascertain compliance with the provisions of this section and other laws which are in force, and to ascertain that the sign is erected and anchored as indicated on the approved sign permit application. Equipment necessary for the Building Inspector to perform his inspection shall be provided by the sign installer.

Section 18-11. Sign Area Computation

- (A) The sign area of a wall sign which consists of individual letters that are erected directly onto a wall exclusive of any sign surface is measured by finding the area of the minimum imaginary rectangle or square of vertical and horizontal lines which fully enclose all sign words, copy or message with eight lines or less.
- (B) The sign area of signs with three or more sides (multi-side signs) containing copy, message, decoration, or announcement is measured by the sum of sides visible from a public way.
- (C) Only one side of a double faced or V-shaped sign shall be counted in determining area when the angle of the "V" is no greater than 45 degrees.

- (D) The sign area of any other sign is measured by finding the area of the minimum imaginary rectangle or square of vertical or horizontal lines.
- (E) The support structure/frame work of a sign shall not exceed 25% of the total maximum allowable area as computed per site. If the supportive structure exceeds 25% the signage must be decreased proportionally.

Section 18-12. Zoning District Sign Regulations

- (A) Signs permitted in R-15, R-8, R-6, MFH-11, PUD Districts
 - (1) In subdivisions with more than 10 lots, 2 subdivision entrance signs per principal entrance are allowed. Such signs shall designate the subdivision by name or symbol only and shall be placed on the face of a masonry entrance wall or similar structure to the subdivision or residential district. Such signs shall not exceed 32 square feet per sign and an aggregate area of 64 square feet per entrance, nor shall they exceed a height of 7 feet. If a double-faced sign is used without the entrance wall, only one such sign is allowed per entrance.
 - (2) In subdivisions with 10 or fewer lots, one subdivision identification sign is allowed. Such sign shall not exceed 24 feet in area nor 7 feet in height.
 - (3) One identification sign for each principal use allowed for religious, public, educational, and public recreational uses, provided it shall not exceed 50 square feet in area per sign face. The maximum height of the sign shall be ten feet if freestanding.
 - (4) Multi-family group development structures are permitted either a single free standing identification sign (not to exceed a maximum height of 7 feet with the sign at 32 square feet). Identification of the building itself shall not exceed 16 square feet. The area surrounding the sign shall have sufficient landscaping.
 - (5) One identification sign for each home occupation is permitted, but shall not be closer than 10 feet to any property line or street right-of-way, shall not project higher than 2 feet above ground level, shall not exceed 2 square feet in area, and shall not be illuminated.
 - (6) The free-standing sign plan must include details as to how the area under and around the sign will be landscaped and the manner in which the plant material will be maintained so as to ensure aesthetics. Specific details of lighting the sign shall be included on the permit application.
- (B) Signs permitted in ID Industrial District, HC Highway Commercial District, CB Central Business District, and RC Residential/Commercial District

- (1) There shall be permitted one on-premises freestanding sign per location which shall not exceed 30 feet in height.
 - (a) Principal property frontage up to 100 linear feet shall be allowed one square foot per linear foot of principal property frontage to a maximum of 100 square feet per street frontage side.
 - (b) Principal property frontage in excess of 100 linear feet shall be allowed an additional 5 square feet per ten linear feet of principal property frontage in excess of 100 linear feet with a total not to exceed 200 square feet per street frontage side.
- (2) Total signage area per location shall not exceed the total area allowable under (B)(1)(a) and (b), above.
- (3) Wall signs with an area of one square foot per linear foot of building frontage are allowed provided the area does not exceed the total allowable area.
- (4) Window signs are not to exceed 50% of glazed area including the inside area within 2 feet of the face of the building and visible from the exterior.
- (5) Commercial centers shall be allowed one free standing commercial center identification sign per location in accordance with the provisions enumerated in (B)(1).
 - (a) Individual businesses within a commercial center shall be allowed one and no more than three business identification signs attached to the structure in which the business is located. Such signs shall not exceed 1.5 square foot per linear foot of building frontage for each business.
 - (b) Individual businesses within a commercial center shall be allowed one business identification sign attached to the commercial center and a freestanding identification sign provided total area of freestanding sign does not exceed that allowance under (B)(1)(a) and (b).
- (6) Changeable Message Signs/Boards. Techniques of message display such as fading, rapid flashing, exploding, dissolving, or moving messages shall not be used. The text of the message shall not scroll or travel horizontally or vertically across the face of the sign. The message may change but no more often than at three (3) second intervals.
- (7) Freestanding Sign Landscaping. Sign permit application must contain a drawing of the sign that includes the area to be landscaped. Signs with multiple faces shall have landscaping in front of both sign faces. If it is not practical to have landscaping, adjust as needed with the approval of the administrator. Ground cover can include, but is not limited to, vegetative

ground covers, perennials, shrubs, and ornamental trees to cover at least 50% of the defined area at maturity. When vegetation is not practical, paving, stones, and rocks are permitted with the approval of the Administrator. Artificial plants are prohibited. Landscaped areas must receive routine maintenance.

- (C) No existing sign which fails to meet the standards of this section shall be enlarged.

Section 18-13. Remedies

- (A) In case any sign shall be installed, erected, or constructed in violation of any of the terms of the N.C. State Building Code or terms of this section, the owner or lessee thereof shall be notified in writing to alter such sign so as to comply with the building code or this section, or to remove the sign. If such order is not complied with within 10 days, or the owner or lessee of the sign in violation has not filed with the town a written notice of intent to appeal, then the town may remove such sign at the expense of the owner or lessee. Such notice shall not prevent any other action authorized by this section. Appeal procedures are outlined under Article 5.
- (B) The town has the right to immediately remove any off-premises sign under 20 square feet in area without notification where the owner is in violation of this section and cannot be identified after a reasonable effort to do so.
- (C) The town has the right to remove any unauthorized, permanent, temporary, or portable sign erected or situated upon public property. These will be considered as littering (reference Town Code 50.04).
- (D) With notification and in accordance with Section 18-5, which states that no sign may be placed or erected in a public right-of-way, and the Town Board's findings that signs erected or placed in the right-of-way constitute an immediate danger to the public by blocking motorists' vision and distracting motorists from the task of driving, the town may remove signs for which no permit is required immediately and without notice to the owner thereof.
- (E) If during the 10-day notification period a sign is removed and then reinstalled after the expiration of the 10-day period, the violation of this section shall be considered as the original 10-day notification period. No further notification is required and the sign may be removed immediately.

Section 18-14. Application

The provisions of this section shall have immediate application to all signs erected hereafter or to which repairs are necessary.

ARTICLE 19. FLOOD DAMAGE PREVENTION ORDINANCE

Coastal Regular Phase

PART I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.

Section 19-1. Statutory Authorization.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Chapter 160D; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

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

Section 19-2. Findings of Fact.

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

Section 19-3. Statement of Purpose.

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

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 19-4. Objectives.

The objectives of this ordinance are to:

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

PART II. GENERAL PROVISIONS.

Section 19-5. Lands to Which This Ordinance Applies.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the Town of Calabash.

Section 19-6. Basis for Establishing the Special Flood Hazard Areas.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels within the jurisdictional authority of the Town of Calabash are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

Section 19-7. Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Part II, Section 19-6 of this ordinance.

Section 19-8. Compliance.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

Section 19-9. Abrogation and Greater Restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 19-10. Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

Section 19-11. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can

and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Calabash or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 19-12. Penalties for Violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Calabash from taking such other lawful action as is necessary to prevent or remedy any violation.

PART III. ADMINISTRATION.

Section 19-13. Designation of Floodplain Administrator.

The Building Inspector, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

Section 19-14. Floodplain Development Application, Permit, and Certification Requirements.

(1) Application Requirements.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility

systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

- (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Part II, Section 19-6, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Part II, Section 19-6;
 - (iv) The boundary of the floodway or non-encroachment area(s) as determined in Part II, Section 19-6;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Part II, Section 19-6; Part III Section 19-15; or Part III, Section 19-16.
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

- (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
- (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Part IV, Section 19-19(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
- (iii) The following, in Coastal High Hazard Areas, in accordance with the provisions of Part IV, Section 19-19 (4) (e) and Part IV, Section 19-21 and Part IV, Section 19-25 if applicable):
 - 1. V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs;
 - 2. Plans for open wood latticework or insect screening, if applicable; and
 - 3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Part IV, Section 19-19, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed

watercourse alteration or relocation.

(2) Permit Requirements.

The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Part II, Section 19-6.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.

(3) Certification Requirements.

- (a) Elevation Certificates
 - (i) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Part IV, Section 19-19(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of

watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- (e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Part IV, Section 19-19 (6) (a).
 - (ii) Temporary Structures meeting requirements of Part IV, Section 19-19 (7); and
 - (iii) Accessory Structures that are 150 square feet or less or the cost of structure is \$3000 or less and meeting requirements of Part IV, Section 19-19 (8).
- (f) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate.

(4) Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work;

in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

Section 19-15. Duties and Responsibilities of the Floodplain Administrator.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Part IV Section 19-23 are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level

(including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Part III, Section 19-14(3).

- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Part III, Section 19-14(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Part IV, Section 19-19 (3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Part IV Section 19-19 (3) and Part IV Section 19-19 (2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Part II, Section 19-6, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Part IV, Section 19-21(2) (c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Part II Section 19-6, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (14) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the

jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

- (15) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (16) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (17) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (18) Follow through with corrective procedures of Part IV, Section 19-21.
- (19) Review, provide input, and make recommendations for variance requests.
- (20) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (21) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

Section 19-16. Corrective Procedures.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of

applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than 180 calendar days. Where the Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

Section 19-17. Variance Procedures.

- (1) The Board of Adjustment as established by the Town of Calabash, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 Basic Definitions (87) of the UDO, provided provisions of Part III Section 19-17 (9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under UDO Article 2 Basic Definitions, Section 2-1 (87) as a functionally dependent facility, where applicable;

- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
 - (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
 - (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
 - (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
 - (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood

levels during the base flood discharge.

- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
- (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - (d) The use complies with all other applicable federal, state and local laws.
 - (e) The Town of Calabash has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

PART IV. PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 19-18. General Standards.

In all Special Flood Hazard Areas, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of

the other requirements of this ordinance.

- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Part III Section 19-17(10) . A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood -proofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Part III, Section 19-14 (3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F).

Section 19-19. Specific Standards.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Part II, Section 19-6 or Part IV, Section 19-21 the following provisions, in addition to the provisions of Part IV, Section 19-18, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Part II of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Part IV, Section 19-26 (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Part III, Section 19-14 (3) along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes.
 - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2, Basic Definitions Section 2-1 (87) of the Town's Unified Development Ordinance (UDO).
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Part IV, Section 19-19 (4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home

parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - (c) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for

regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

- (d) Shall, in Coastal High Hazard Areas (Zone VE) meet the requirements of Part IV, Section 19-24.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or

structure, the one year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (i) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
- (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Temporary Placement

- (i) Be on site for fewer than 180 consecutive days; or
- (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

(b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

- (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (b) Accessory structures shall not be temperature-controlled;
 - (c) Accessory structures shall be designed to have low flood damage potential;
 - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (e) Accessory structures shall be firmly anchored in accordance with the provisions of Part IV, Section 18-19;
 - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Part IV, Section 19-18(4); and
 - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Part IV, Section 19-19 (4)(d).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3000 cost of structure or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Part IV, Section 19-19 (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Part III, Section 19-14 (3).

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Part IV, Section 19-19 (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) Other Development.
- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Part IV, Section 19-23 of this ordinance.
 - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Part IV, Section 19-23 of this ordinance.
 - (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water

crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Part IV, Section 19-24 Section F of this ordinance.

Section 19-20. Reserved.

Section 19-21. Standards for Floodplains Without Established Base Flood Elevations.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Part IV, Section 19-18, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Part IV, Sections 19-18 and 19-19.
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Part IV, Sections 19-19 and 19-23.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Part II, Section 19-6 and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in UDO Article 2 Basic Definitions, Section 2-1 (87). All other

applicable provisions of Part IV, Section 19-19 shall also apply.

Section 19-22. Standards for Riverine Floodplains with Base Flood Elevations but Without Established Floodways or Non-Encroachment Areas.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Part IV, Sections 19-18 and 19-19; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Section 19-23. Floodways and Non-Encroachment Areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Part II, Section 19-6. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Part IV, Sections 19-18 and 19-19, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Part IV, Section 19-23 (1) is satisfied, all development shall comply with all

applicable flood hazard reduction provisions of this ordinance.

- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Part IV, Section 19-19 (3); and
 - (b) The encroachment standards of Part IV, Section 19-23 (1).

Section 19-24. Coastal High Hazard Area (Zone VE).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Part II Section 19-6, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Part IV, Sections 19-18 and 19-19.

- (1) All new construction and substantial improvements shall:
 - (a) Be located landward of the reach of mean high tide;
 - (b) Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood or plastic latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Part IV, Section 19-19 (4)(e)(i). Design plans shall be submitted in accordance with the provisions of Part III Section 19-14 (1)(d)(iii)(2); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Part IV, Section 19-19, (4)(a),(b),(c)&(e)(ii). Design plans shall be submitted in accordance with the provisions of Part III Section 19-14 (1)(d)(iii)(1).

- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - (a) Water loading values used shall be those associated with the base flood.
 - (b) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Part III, Section 19-14 and Part IV, Section 19-24 (3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version.
- (6) Fill/Grading
 - (a) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios, and walkways.
 - (b) The fill material must be similar and consistent with the natural soils in the area.
 - (c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave run up and wave reflection that would increase damage to adjacent elevated buildings and structures.
 - (d) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave run up and wave reflection that would increase damage to adjacent elevated buildings and structures.
- (7) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- (8) No manufactured homes shall be permitted except in an existing manufactured

home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.

- (9) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Part IV, Section 19-19(6)(a).
- (10) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Part III, Section 19-14, (3)(f).
- (11) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (12) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave run up and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
 - (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.

Section 19-25. Standards for Coastal A Zones (Zone CAZ) LiMWA (Maximum 650 CRS Points)

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical

Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

- (1) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.
- (2) All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Part IV, 19-19 (4) (e) (i). Design plans shall be submitted in accordance with the provisions of Part III, Section 19-14(1) (d) (iii) (2); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Part IV 19-19 (4) (e) (ii). Design plans shall be submitted in accordance with the provisions of Part III, Section 19-14 (d) (iii) (1).
- (3) All new construction and substantial improvements shall include, in Zones CAZ, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Part IV, Section 19-19 (4) (d).
- (4) All new construction and substantial improvements shall meet the provisions of Part IV Section 19-24 G (3).
- (5) A registered professional engineer or architect shall certify that the design, specifications, and plans for construction are in compliance with the provisions of Part III, Section 19-14 and Part IV, Section 19-24 (3) and (4) on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.
- (6) Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Part IV, Section 19-19(6)(a).
- (7) Fill/Grading must meet the provisions of Part IV, Section 19-24 (11).

- (8) Decks and patios must meet the provisions of Part IV, Section 19-24 (15) and (16).
- (9) In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Part IV, Section 19-24 (17).

Section 19-26. Standards for Areas of Shallow Flooding (Zone AO).

Located within the Special Flood Hazard Areas established in Part II, Section 19-6, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Part IV, Section 19-18 and 19-19, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Part IV, Section 19-26 (1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Part III, Section 19-14 (3) and Part IV, Section 19-19 (2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Section 19-27. Standards for Areas of Shallow Flooding (Zone AH).

Located within the Special Flood Hazard Areas established in Part II, Section 19-6, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Part IV, Sections 19-18 and 19-19, all new construction and substantial improvements shall meet the following requirements:

Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

PART V. LEGAL STATUS PROVISIONS.

Section 19-28. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted November 30, 1987, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Calabash enacted on November 30, 1987, as amended, which are not reenacted herein are repealed. (Last amended April 11, 2006)

The date of the initial Flood Damage Prevention Ordinance for Brunswick County is April 1, 1985.

Section 19-29. Effect Upon Outstanding Floodplain Development Permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

Section 19-30. Severability.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 19-31. Effective Date.

This ordinance shall become effective August 28, 2018.

Section 19-32. Adoption Certification.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Commissioners of the Town of Calabash, North Carolina, on the 10th day of July, 2018.

WITNESS my hand and the official seal of the Town of Calabash, Town Clerk, this the 10th day of July, 2018.

ARTICLE 20. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

NOTE: Adult and Sexually Oriented Establishments will be considered a special use, processed and approved under the requirements of a Special Use Permit (see Section 12-17).

Section 20-1. Purpose

The purpose of this Article shall be to set forth the regulatory and licensing requirements for adult and sexually oriented establishments located within the Town of Calabash. Adult and sexually oriented establishments, because of their very nature, are recognized as having serious objectionable operational characteristics. Studies and experiences that are relevant to North Carolina have shown that lower property values and increased crime rates tend to accompany and are brought about by adult and sexually oriented business establishments. The Board of Commissioners finds that regulation of these uses is necessary to ensure that these adverse secondary effects do not contribute to the blighting of surrounding neighborhoods, and to regulate acts, omissions, or conditions detrimental to the health, safety, or welfare and the peace and dignity of the Town. Regulation to achieve these purposes can be accomplished by the procedures set forth hereinafter.

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

Section 20-2. Application for Licenses

(A) Adult Establishment License.

- (1) It shall be unlawful for any person to operate or maintain an adult establishment in the Town unless the owner or operator thereof has obtained an Adult Establishment License from the Town. It shall also be unlawful for any person to operate such business after such license has been revoked or suspended by the Town, or said license has expired.
- (2) It shall be unlawful for any entertainer to knowingly perform any work, service, or entertainment directly related to the operation of an unlicensed adult establishment within the Town.
- (3) It shall be prima facie evidence that any adult establishment that fails to have posted, in a manner required by this Article, an adult establishment license, or has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer who performs any service or entertainment in

which an adult establishment license is not posted, in the manner required by this Article, had knowledge that such business was not licensed.

- (B) Entertainer License. It shall be unlawful for any person to work as an entertainer at an adult establishment without first obtaining a license to do so from the Town, or to work as an entertainer at an adult establishment after such person's license to do so has been revoked or suspended by the Town, or has expired.
- (C) License Classification and Fees.
 - (1) The term of all licenses required under this Article shall be for a period of 12 months, commencing on the date of issuance of the license. The application for a license shall be accompanied by payment in full of the fees referred to in this Article and established by the Board of Commissioners. Payment shall be made by certified or cashier's check or money order. No application shall be considered complete until all such fees are paid.
 - (2) The license shall be issued for a specific location and/or person and shall be non-refundable or non-transferable.
 - (3) The license fees shall be as set by the Board of Commissioners and be recorded in the Board of Commissioners Meeting Minutes at which they are set. The license fee for an adult establishment shall be \$1,000 per year. Additionally, there shall be an additional \$500 fee for each additional partner, if the applicant is a partnership; and if the applicant is a corporation, for each corporate officer, director, or any individual(s) having a ten percent or greater interest in the corporation.
 - (4) The license fee for an adult entertainer license shall be \$500 per year.
 - (5) Said license fees shall be listed on the official Schedule of Fees for the Town.

Section 20-3. Application Procedures

- (A) Adult Establishment License. All persons desiring to secure a license to conduct, operate, or maintain an adult establishment under the provisions of this Article shall make a verified application to the Administrator. All applications shall require the following information and be submitted on a form supplied by the Town:
 - (1) The applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time, and the residence address(es) for the past two years, the business and home telephone numbers, occupation, date and place of birth, social security number, driver's license number, and a recent photograph of the applicant.

- (2) (a) The name of the adult establishment, a full description of the adult entertainment to be performed on the licensed premises, the name of the owner of the premises where the adult establishment will be located, the business address and Brunswick County parcel identification number on which the business resides.
 - (b) If the persons identified as the fee owner(s) of the tract of land in item 2(a) is/are not also the owner(s) of the establishment, then the lease, purchase contract, purchase option contract, lease option contract, or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the adult establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of an adult establishment.
 - (c) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, library, or public park or recreation area within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
 - (d) Any of the criteria above shall not be required for a renewal application if the applicant states, in writing, that the documents previously furnished to the Town with the original application or previous renewals thereof remain correct and current.
- (3) The names, residence address(es) for the past two years, social security numbers, and dates of birth of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers, directors, and individuals having a ten percent or greater interest in the corporation.
 - (4) A written statement from the applicant, or from partner, or from each corporate officer, director, or ten percent shareholder that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - (a) A felony criminal act within five years immediately preceding the application, or
 - (b) A misdemeanor criminal act within two years immediately preceding the application.

Where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the laws of the State of North Carolina or any other comparable violation of the laws of this state or the laws of any other state.

- (5) If the applicant is a corporation, a current certificate of existence issued by the State of North Carolina Secretary of State.
 - (6) A written statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Article regulating adult establishments.
 - (7) All applicants shall submit to fingerprinting by the Sheriff's Department. The fingerprint cards shall be submitted to the North Carolina State Bureau of Investigation (SBI) for processing. Returned fingerprint cards and criminal histories shall be kept on file at the Sheriff's Department.
 - (8) A written statement signed under oath that the applicant(s) consent(s) to investigation of his/her background by the Town to include fingerprinting and that the applicant(s) agrees to furnish within ten days at his/her expense, a criminal history from the Clerk of Court of any county in which the applicant has resided during the five preceding years.
 - (9) Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed until complete.
- (B) Adult Entertainer License. All persons desiring to secure a license under the provisions of this Article to be an entertainer shall make a verified application to the Town. All applications shall be made in person to the Administrator. All applications shall be submitted on a form supplied by the Town and shall require the following information:
- (1) The applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time, and the residence address(es) for the past two years, the home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining.
 - (2) The name and address of the adult establishment where the applicant intends to work as an entertainer.
 - (3) A written statement from the applicant that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution of:

- (a) A felony criminal act within five years immediately preceding the application, or
 - (b) A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the laws of the State of North Carolina or any other comparable violation of the laws of this state or the laws of any other state.
- (4) Photographs shall be taken of the applicant by the Town and the Administrator charged with the administration and enforcement of the provision of this Ordinance shall have the photographs processed and retain the copies.
- (5) All applicants shall submit to fingerprinting by the Sheriff's Department. The fingerprint cards shall be submitted to the SBI for processing. Returned fingerprint cards and criminal histories shall be kept on file at the Sheriff's Department.
- (6) The applicant shall present, at the time the application is made, documentation to the Town for copying that the applicant has attained the age of 21 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - (a) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
 - (b) A state issued identification card bearing the applicant's photograph and date of birth;
 - (c) An Official and valid passport issued by the United States of America;
 - (d) An immigration card issued by the United States of America (if applicable);
 - (e) Any other form of picture identification issued by a governmental entity that is deemed reliable by the Town; or
 - (f) Any other form of identification deemed reliable by the Town.
- (7) A written statement signed under oath that the applicant consents to investigation of his/her background by the Town to include fingerprinting and that the applicant agrees to furnish within ten days at his/her expense, a criminal history from the Clerk of Court of any county in which the applicant has resided during the five preceding years.

- (8) Failure to provide the information required by this subsection shall constitute an incomplete application and it shall not be processed until complete.
- (C) Application Processing. Upon receipt of a complete application for an Adult Business License or for an adult entertainer license, the Administrator shall immediately commence investigation of the application as follows:
 - (1) In the case of an application for a license for an adult establishment, the Administrator shall:
 - (a) Transmit a copy of the application to the Town's Building Inspector, the Planning Board, the Sheriff's Department, and the Town Clerk.
 - (b) The Building Inspector shall report to the Administrator no later than 15 working days after the receipt of the application by the Administrator whether or not a proposed adult establishment complies with the requirements of the Town's Unified Development Ordinance regarding location of the adult establishment building, fire, health, or similar State or local code(s). In the event that the Building Inspector fails to report to the Administrator within this time period, the Administrator shall proceed with processing the application.
 - (c) The Planning Board shall review the application to confirm compliance with Articles 12 and 23. If the Planning Board confirms compliance, then a Special Use shall be granted and the findings transmitted to the Administrator within 30 working days of receipt of the application by the Planning Board.
 - (d) The Sheriff's Department shall report to the Administrator no later than 15 working days after receipt of the application by the Sheriff's Department the results of his/her investigation of the applicant. In the event that the Sheriff's Department fails to report to the Administrator within this time period, the Administrator shall proceed with processing the application.
 - (e) The Town Clerk shall maintain said copy of the application for public review. Notice of availability of said application shall be posted in a paper of general circulation indicating the following:
 - (i) Name of applicant
 - (ii) Date of application
 - (iii) Nature of application

- (f) Upon completion of his/her investigation, payment of the applicable license fee, and upon receipt of the report of the Building Inspector, the Planning Board, and the Sheriff's Department (or upon expiration of the time periods referenced above without receiving a report), the Administrator shall determine whether or not a license shall be issued. In no event shall the time period for determination by the Administrator exceed 45 working days from the date the application is received by the Administrator, unless consented to by the applicant.
- (2) In the case of an application for a license for an entertainer, the Administrator shall:
 - (a) Transmit a copy of the application to the Sheriff's Department.
 - (b) The Sheriff's Department shall report to the Administrator no later than 15 working days after receipt of the application by the Sheriff's Department the results of his/her investigation of the applicant. In the event that the Sheriff's Department fails to report, the Administrator shall proceed with processing the application.
 - (c) Upon completion of his/her investigation, payment of the appropriate license, and upon receipt of the report of the Sheriff's Department (or upon expiration of either or both time periods referenced above without receiving a report), the Administrator shall determine whether or not a license shall be issued. In no event shall the time period for determination by the Administrator exceed 15 days from the date the application is received by the Administrator, unless consented to by the applicant.
- (D) Reasons for Disapproval. The Administrator must deny the Adult Business License application for one or more of the following reasons:
 - (1) The license application is incomplete so as to not contain all information required by the Article.
 - (2) The applicant (including any partners, corporate officers, directors, and shareholders where applicable) has been convicted of a crime in the local, state, or federal court systems for any violations listed in this section.
 - (3) The applicant (including any partners, corporate officers, directors, and shareholders where applicable) has made a false or fraudulent statement in the application, evidence of which is disclosed by a Town background investigation or by any other lawful means.
 - (4) The application for an adult establishment business license does not meet the requirements of this Article.

- (5) The applicant for an adult establishment has not received a Special Use Permit from the Planning Board.
- (E) Notice of Approval or Disapproval.
 - (1) Upon a determination by the Administrator of the disapproval or approval of the application, the Administrator shall notify the applicant by personal delivery or certified mail, return receipt requested, to the address of the applicant as shown on the application. In the event that the application is disapproved, the notification shall state the basis for such disapproval.
 - (2) In the event an application is disapproved, the applicant shall have 30 days from the receipt of the notice of disapproval to appeal that determination to the Superior Court of Brunswick County.
- (F) Changes to Application. All applicants shall notify the Administrator of any changes to the application within five working days of the date the change occurs.

Section 20-4. Prohibited Acts and Conduct

- (A) No person under the age of 21 years shall be permitted on the premises of any adult establishment.
- (B) No person under the age of 21 years shall be granted a license for an Adult Establishment Business or as an entertainer.
- (C) No owner, operator, manager, employee, or entertainer, nor any customer or patron, shall appear "bottomless" or in a state of nudity while on the premises of the adult establishment.
- (D) No owner, operator, manager, employee, or entertainer, nor any customer or patron shall perform any specified sexual activities as defined in this Ordinance, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial device or inanimate object to perform or depict any of the specified sexual activities, as defined in this Ordinance, or participate in any act of prostitution while on the premises of the adult establishment.
- (E) No owner, operator, manager, employee, entertainer, customer, or patron of an adult establishment shall knowingly touch, fondle, or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle, or caress any specified anatomical area of his or hers, whether such specified anatomical areas are clothed, unclothed, covered, or exposed, while on the premises of the adult establishment.
- (F) There shall be a minimum separation of 24" between any entertainer or performer and any patron or customer.

- (G) No owner, operator, manager, or employee shall mix, dispense, or serve any alcoholic beverage while in a state of nudity or semi-nudity.
- (H) No owner, operator, manager, or employee shall solicit, receive, or accept nor shall any customer or patron give, offer, or provide any gratuity, tip, payment, or any other form of compensation for entertainment for or while either or both is/are in a state of nudity or semi-nudity. This also pertains to the purchase of an unrelated item that includes a “free” dance, act, or service.
- (I) No owner, operator, manager, or other person in charge of the premises of an adult establishment premises shall knowingly allow or permit any person under the age of 21 years of age to be in or upon the premises or knowingly allow or permit a violation of this Ordinance.

Section 20-5. License, Posting, and Display

- (A) Every person, corporation, or partnership licensed under this Ordinance as an adult establishment shall post such license in a conspicuous place and manner on the adult establishment premises.
- (B) Every person holding a license as an entertainer shall post his/her license in his or her work area on the adult establishment premises so it shall be readily available for inspection by the Town authorities responsible for enforcement of this Ordinance.

Section 20-6. Inspections

- (A) All adult establishments shall permit representatives of the Sheriff’s Department, Fire, Zoning, or other Town or state departments or agencies acting in their Official capacity, to inspect the premises as necessary to ensure that the business is complying with all applicable regulations and laws.
- (B) The owner or operator of an adult establishment shall provide, on the first work day of each month, a comprehensive written list of all employees of said adult establishment to include any and all entertainers working on the premises to the Administrator for inspection.

Section 20-7. Suspension or Revocation of Licenses

- (A) The Administrator shall conduct a hearing to determine whether or not a license should be suspended or revoked, with the hearing conducted within ten working days of his/her knowledge that:
 - (1) The owner or operator of an adult establishment or the holder of a license as an entertainer has violated, or knowingly allowed or permitted the violation of any of the provisions of this Ordinance; or

- (2) There have been recurring violations of provisions of this Ordinance that have occurred under such circumstances that the owner or operator of an adult establishment knew or should have known that such violations were committed; or
 - (3) The license was obtained from false statements in the application for such license, or renewal thereof; or
 - (4) The license has been materially altered or defaced or is being or was used by a person other than the license holder or at a location other than that identified on the license or for a use or type other than that for which the license was issued; or
 - (5) The licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
 - (6) The owner or operator, or any partner, or any corporate officer or director holding an adult establishment license has become disqualified from having a license by a conviction as provided in this Article; or
 - (7) The holder of an entertainer license has become disqualified from having a license by a conviction as provided in this Article; or
 - (8) The owner or operator of the adult establishment fails to provide to the Administrator a comprehensive written list of all employees to include any and all entertainers working on the premises on the first working day of any given month.
- (B) At the hearing, the licensee shall have an opportunity to be heard, to present evidence, and to be represented by an attorney. Based on the evidence produced at the hearing, the Administrator shall take, within five working days after the hearing, any of the following actions:
- (1) Suspend the license for up to 90 days; or
 - (2) Revoke the license; or
 - (3) Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of this Article occur during the period of probation; or
 - (4) Take no action.
- (C) The Administrator shall provide written notice of his/her decision to the applicant by certified mail, return receipt requested. The notice shall be sent immediately after the Administrator determines what action to take, as described herein.

- (D) In the event of suspension or revocation of the license or the placement on administrative probation, the licensee shall have the right to appeal that determination to the Superior Court of Brunswick County within 30 days of receipt of the notice of suspension, revocation, or probation.

Section 20-8. License Renewal

- (A) A license may be renewed by making application to the Administrator on application forms provided for that purpose. Any license issued under this Article shall expire as of the end of the 12 month period from the date of its issuance, and renewal applications for such licenses shall be submitted no sooner than 45 days prior to expiration and no later than the Town business day immediately preceding the date of expiration of the license.
- (B) Upon timely and proper application for renewal and the payment in full of the license fee, the Administrator shall issue to the applicant a receipt showing the date of the renewal application and granting to the applicant a temporary extension of the license for a period of 45 days or until the application for renewal is approved or disapproved. Any license issued under the provisions of this Article may be renewed by issuance of a new license for an additional 12 month period. All applications for renewal of license shall be processed in the manner provided for the issuance of the initial license as set forth within this Article.

Section 20-9. Transfer of License

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Section 20-10. Locational Restrictions

Sexually oriented businesses may be permitted as a Special Use in an ID zoning district provided that:

- (A) The sexually oriented business may not be located or operated within 1,000 feet of:
 - (1) A church, synagogue, or regular place of worship;
 - (2) A public or private elementary or secondary school;
 - (3) A public library;
 - (4) A boundary of any residential district;
 - (5) A publicly owned park, beach, beach access, or other recreation area or facility;

- (6) A licensed day care center;
 - (7) An entertainment business that is oriented primarily towards children;
 - (8) Another sexually oriented business.
- (B) For the purpose of this Article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is to be conducted, to the nearest property line of the premises of any use listed in (A) above.
 - (C) No more than one adult or sexually oriented business establishment or massage business shall be located in the same building or structure or on the same lot. No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.
 - (D) Adult and sexually oriented businesses shall be located as special use within the ID Zoning district.
 - (E) All minimum lot requirements and regulations of the ID Zoning District shall be met.
 - (F) No person shall permit any viewing booth in an adult mini motion picture theater to be occupied by more than one person at any time.

Section 20-11. Additional Regulations for Adult Motels

- (A) Evidence that a sleeping room in a hotel, motel, or similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttal presumption that the enterprise is an adult motel as that term is defined in this Ordinance.
- (B) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.
- (C) For the purpose of this Article, the terms “rent” and “subrent” mean the act of permitting a room to be occupied for any form of consideration.

Section 20-12. Additional Regulations for Escort Agencies

- (A) An escort agency shall not employ any person under the age of 21 years.
- (B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 21 years.

Section 20-13. Additional Regulations for Nude Model Studios

- (A) A nude model studio shall not employ any person under the age of 21 years.
- (B) A person under the age of 21 years is in violation of this Article if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 21 years was in a restroom not open to the public view or visible by any other person.
- (C) It is a violation of this Article if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

Section 20-14. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, and Live Performances

- (A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, other video reproduction, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more managers' stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A managers' station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designed street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Administrator may waive the foregoing

diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Administrator.
- (4) It is the duty of the owner(s) and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designed, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owner(s) and operator, and it shall also be the duty of the agent(s) and employee(s) present in the premises, to ensure that the view area specified in subsection (5) remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) above.
- (7) No viewing room may be occupied by more than one person at any time.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot candle as measured at the floor level.
- (9) It shall be the duty of the owner(s) and operator, and it shall be the duty of any agent(s) and employee(s) present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (10) No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

- (11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
 - (12) The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.
 - (13) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
 - (14) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within 48" of the floor.
- (B) A person having a duty under subsections (1) through (14) of this section is in violation of this Article if he/she knowingly fails to fulfill that duty.

Section 20-15. Exterior Portions of Sexually Oriented Businesses

- (A) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- (B) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Article.
- (C) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single monochromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - (1) The establishment is a part of a commercial multi-unit center; and
 - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
 - (3) Nothing in this Article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

- (4) A violation of any provision of this Section shall constitute a violation of this Article.

Section 20-16. Signage

- (A) Notwithstanding Article 18, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one attached sign, as provided herein.
- (B) Primary signs shall have no more than two display surfaces. Each such display surface shall:
 - (1) not contain any flashing lights;
 - (2) be a flat plane, rectangular in shape;
 - (3) not exceed 64 square feet in area; and
 - (4) not exceed 24 feet in height.
- (C) Primary signs shall contain no photographs, silhouettes, drawings, or pictorial representations in any manner, and may contain only the name of the enterprise.
- (C) Each letter forming a word on a primary sign shall be of a solid color, and each letter shall be the same print-type, size, and color. The background behind such lettering on display surface of a primary sign shall be of a uniform and solid color.
- (D) Attached signs shall have only one display surface. Such display surface shall:
 - (1) be a flat plane, rectangular in shape;
 - (2) not exceed four feet in height and eight feet in width;
 - (3) be directly affixed or attached to any wall or door of the enterprise.
- (F) The provisions of item (1) of subsection (B) and subsection (C) and (D) shall also apply to secondary signs.
- (G) Setback, height, and any other provision of the Unified Development Ordinance that is not in conflict with this section shall apply.

Section 20-17. Parking

Any adult establishment erected, altered, or converted for or to any other adult establishment shall be required to comply with the parking requirements as set forth within Article 19 of this Ordinance.

Section 20-18. Massages or Baths Administered by a Person of the Opposite Sex

It shall be unlawful for a sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor, or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this Section shall constitute a misdemeanor.

Section 20-19. Hours of Operation

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 AM and 8:00 AM on weekdays and Saturdays, and 1:00 AM and 12:00 PM on Sundays.

Section 20-20. Exemptions

It is a defense to prosecution under this Article that a person appearing in a state of nudity did so in a modeling class operated:

- (A) By a proprietary school, licensed by the State of North Carolina, a college, junior college, or university supported entirely or partly by taxation;
- (B) By a private college or university that maintains and operates education programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Section 20-21. Notices

- (A) Any notice required or permitted to be given by the Administrator or any other Town office, division, department, or other agency under this Article to any applicant, operator, or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the Administrator. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Administrator or his designee shall cause it to be posted at the principal entrance to the establishment.
- (B) Any notice required or permitted to be given to the Administrator by any person under this Article shall not be deemed given until and unless it is received in the office of the Administrator.
- (C) It shall be the duty of each owner who is designated in the license application and each operator to furnish notice to the Administrator in writing of any change of residence or mailing address.

- (D) Notice of Violation and Penalty. When the Administrator of the Town or designee determines that a person is in violation of the provisions as set forth in this Article, a written notice of violation shall be issued to the owner of the subject property. The notice of violation shall contain:
- (1) The name and address of the person(s) in violation;
 - (2) The street address and a description of the building structure, or land upon which the violation has occurred;
 - (3) A statement specifying the nature of the violation;
 - (4) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (5) A statement that the Town's determination of violations may be appealed to the Town Manager by filing a written notice of appeal within 30 days of service of said notice of violation.
 - (6) The notice of violation shall be served upon the person(s) to whom it is directed either personally, in the manner provided for personal service of notices by the Court of local jurisdiction, or by mailing a copy of the notice of violation by certified mail, postage prepaid, return receipt requested to such person at his or her last known address.
- (E) A notice of violation issued pursuant to this section constitutes a determination from which an administrative appeal may be taken to the Town Administrator.

ARTICLE 21. TELECOMMUNICATION FACILITIES

Section 21-1. Purpose

The purpose of this Article is to set forth the requirements for planning and construction of telecommunications facilities including cellular antennas, wireless communication towers, and principal communication towers for other uses.

Section 21-2. Facilities Permitted

Telecommunications facilities, including cellular antennae and wireless communications towers and facilities, are permitted subject to the following conditions:

- (A) Location. The proposed tower and accessory structure and equipment shall be placed in a location and in a manner that will minimize the visual impact on the surrounding area. Any tower or accessory structure shall be approved by the Planning Board for compliance with these requirements. Accessory structures and equipment must meet applicable Sections of Article 12.

Towers may be erected on a Town-owned tower or on Town property with Town approval without a Special Use Permit being issued. The tower shall not exceed 40 feet in height. Towers are permitted on all government facilities and structures in all zoning districts and a special use permit is not required.
- (B) Co-Location. Approval for a proposed tower within a radius of 10,500 feet from an existing tower or other similar structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet applicant's structural specifications or technical design requirements, or that a co-location agreement could not be obtained at a reasonable market rate and in a timely manner. Once a tower is approved, co-location is required for other users.
- (C) Setback. All towers shall be setback from any residential structure a distance of the tower's height plus 50 feet, unless the owner of the residential structure waives this requirement by a notarized affidavit.
- (D) Design. Towers shall be designed to accommodate additional antennae. The color of the tower and its antennae shall be one that will blend to the greatest extent possible with the natural surroundings and shall be approved by the Planning Board. The tower will not be illuminated or contain any illumination except as required by state and federal regulations. No signage shall be allowed on any tower, antenna, or accessory structure except for a public utility sign not to exceed one square foot placed on the utility's equipment.
- (E) Maintenance or Service Structures. One unmanned maintenance or service structure of not more than 20 feet in height and 400 square feet of floor space may accompany each tower. The tower and maintenance or service structure shall not be required to comply with development standards relating to lot size, setbacks,

street frontage, and subdivision regulations, so long as the principal use complies with this Article.

- (F) Existing Towers. Existing towers may be replaced or modified providing that the existing height is not exceeded by more than 20 feet and the new or modified tower meets all of the requirements of this Article except setback provisions.
- (G) Abandoned Towers. Any tower, antenna, accessory structure, or equipment that is not used for communications purposes for more than 120 days shall be considered abandoned; and once considered abandoned shall be removed by the owner within 60 days.
- (H) Removal of Towers. Where removal of any tower, accessory structure, or equipment is planned, cash, a letter of credit, or other acceptable collateral in the amount of the anticipated removal costs as determined by a North Carolina registered engineer is required.

Section 21-3. Telecommunications Facility Plans

No telecommunications facility shall be constructed or permitted without a set of facility plans bearing an engineer's seal that has been filed with the Administrator. Telecommunications facility plans shall contain the following:

- (A) Fee. A fee determined by the Board of Commissioners.
- (B) Narrative. A written narrative of the development plan.
- (C) Development Impact Statement. The impact on the environment (trees, run-off, waste disposal, emissions, historic property impact, and impact on other properties).
- (D) Co-location on Existing Towers. Documentation that co-location on existing towers or structures within a radius of 10,500 feet was attempted by the applicant, but found unfeasible with reasons noted.
- (E) Co-location on Proposed Tower. A notarized affidavit that states the applicant's willingness to allow location on the proposed tower, at a fair market price and in a timely manner, of any other service provider licensed by the Federal Communications Commission (FCC) for the Cape Fear market area.
- (F) Site Plan. A site plan at a scale of one inch equals 40 feet by a North Carolina registered surveyor, showing location of all existing property lines and improvements within a 500 foot radius and any proposed tower, antenna, accessory structure, or equipment. In addition, the site plan must include:
 - (1) A list of adjacent property owners and their addresses;

- (2) Zoning district;
- (3) Names of developer(s) and owner(s).
- (G) Other Permits. Copies of all county, state, and federal permits with the application building permit where prior local approval is not required.
- (H) Elevation Drawings. Elevation drawings of all towers, antennae, and accessory structures and equipment, indicating height, design, and colors.
- (I) Landscape Plan. If visible from any public road, a landscape plan at a scale of one inch equals 40 feet shall indicate how the applicant proposes to screen any service structure, accessory structure, or equipment from view. Indigenous vegetation shall be used in all plantings. A permanent maintenance plan shall be provided for the plantings.
- (J) FCC and FAA Certifications. Certification that all antenna and equipment comply with FCC regulations for radio frequency radiation and all towers, antennae, and equipment meet Federal Aviation Administration (FAA) aviation and navigation requirements.
- (K) NEPA Compliance. A copy of approved National Environmental Policy Act of 1969 (NEPA) compliance report for all towers, antennae, accessory structures, or equipment proposed for the proposed site.
- (L) Structural Requirements. Documentation signed and sealed by a North Carolina registered engineer that indicates any proposed tower meets the structural requirements of the Standard Building Code and the co-location requirements of this Article.
- (M) Liability. Proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 (escalated each year by the Consumer Price Index) in the aggregate which may arise from operation of the facility during its life, at no cost to the Town of Calabash, in a form approved by the Town Attorney.
- (N) Other Approvals, Certifications, or Recommendations. Appropriate approvals, certifications, or recommendations required to allow review of approval criteria such as sight line analysis, aerial photographs, or other such tests as determined by the Town Administrator.

ARTICLE 22. VESTED RIGHT PROVISIONS

Section 22-1. Purpose

The purpose of this section is to provide for the establishment of a zoning vested right, as created by NC General Statutes 160D-108 and 106D-108.1, upon the approval of a site-specific vesting plan.

Section 22-2. Establishment of a Zoning Vested Right

- (A) A zoning vested right is established upon the valid approval, or conditional approval, by the Board of Commissioners or Board of Adjustment, as applicable, of a site-specific vesting plan, following notice and public hearing in accordance with NC General Statute 160D-601.
- (B) The approving authority may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
- (C) Notwithstanding subsections (A) and (B), approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a zoning vested right until the necessary variance is obtained.
- (D) A site-specific vesting plan is approved upon the effective date of the approval authority's action or Ordinance relating thereto.
- (E) A zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific vesting plan upon the expiration or termination of the vested right in accordance with this section.
- (F) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

Section 22-3. Approval Procedures and Approval Authority

- (A) Except as otherwise provided in this section, an application for site-specific vesting plan approval shall be processed in accordance with the procedures established by Ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

- (B) Notwithstanding the provisions of subsection (A), if the authority to issue a particular zoning or land use permit or approval has been delegated to a board, committee or administrative official other than the Board of Commissioners or Board of Adjustment, or other planning agency designated to perform the duties of the Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Board of Commissioners or Board of Adjustment, following public notice and hearing in accordance with NC General Statutes 160D-601.
- (C) In order for a zoning vested right to be established upon approval of a site-specific vesting plan, the applicant must indicate at the time of application, on a form to be provided by the Administrator, that a zoning vested right is sought.
- (D) Each map, plat, site plan or other document evidencing a site-specific vesting plan shall contain the following notation: "Approval of this plan established a zoning vested right under NC General Statutes 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."
- (E) Following approval or conditional approval of a site-specific vesting plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
- (F) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the Zoning Ordinance.

Section 22-4. Duration

- (A) A vested zoning right shall remain vested for a period of two years unless the period is extended in accordance with the Subsection (B) below. This vesting shall not be extended by amendments or modifications to a site-specific vesting plan unless the approval authority extends it upon approval of the amendment or modification.
- (B) Notwithstanding Subsection (A) above, the approval authority may provide that rights shall be vested for a period exceeding two years, but not exceeding five years, where warranted by relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles and market conditions. These determinations shall be at the sound discretion of the approval authority at the time the site-specific vesting plan is approved.
- (C) Upon issuance of a building permit, the expiration provisions of NC General Statutes 160D-1111 and the revocation provisions of NC General Statutes 160D-

1115 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

Section 22-5. Termination

A zoning right that has been vested as provided in this section shall terminate:

- (A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- (B) With the written consent of the affected landowner;
- (C) Upon findings by the Board of Commissioners, by Ordinance after notice and a quasi-judicial evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan;
- (D) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing and architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
- (E) Upon findings by the Board of Commissioners, by Ordinance after notice and a quasi-judicial evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site-specific vesting plan; or
- (F) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific vesting plan, in which case the approval authority may modify the affected provisions, upon a finding that the change has a fundamental effect on the plan, by Ordinance after notice and a quasi-judicial evidentiary hearing.

Section 22-6. Voluntary Annexation

A petition for annexation filed with the Town under NC General Statutes 160A-31 or NC General Statutes 160A-58.1 shall contain a signed statement declaring whether any zoning vested right with respect to the properties subject to the petition has been established under NC General Statutes 160D-108 or 160D-108.1. A statement that declares that no zoning vested right has been established under NC General Statutes 160D-108 and 160D-108.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

Section 22-7. Limitations

Nothing in this section shall create any vested right other than those established pursuant to NC General Statutes 160D-108 and 160D-108.1.

Section 22-8. Repealer

In the event that NC General Statutes 160D-108 and 160D-108.1 is repealed, Article 22 of this Ordinance shall be deemed repealed.

Section 22-9. Permit Choice

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

ARTICLE 23. TRAFFIC IMPACT STUDY

Section 23-1. Purpose

A traffic impact study may be required for special use permits, subdivisions, and planned building groups as defined in this Article. The study will enable the Town of Calabash to assess the impact of a proposed special use permit or development on the highway system when that system is at or near capacity or a safety problem exists. Its purpose is to insure that proposed developments do not adversely affect the highway network and to identify any traffic problems associated with access from the site to the existing transportation network. The purpose of the study is also to identify solutions to potential problems and to present improvements to be incorporated into the proposed development.

Section 23-2. Conduct

A traffic impact study shall be prepared by a qualified professional traffic engineer and/or certified transportation planner with previous traffic study experience. The procedures and standards for the traffic impact study are set forth in Section 23-5 of this Article.

Prior to the preparation of a traffic impact study, a scoping meeting shall be held, including the planning staff, the applicant, and the preparer of the study. The discussion at this meeting should set the study parameters, including the study area, planned and committed roadway improvements (by NCDOT or others), road links and intersections to be analyzed, preliminary traffic distribution, other planned developments to be considered, traffic growth rate, available data, periods for which analysis is to be performed, and other staff concerns. The qualifications of the preparer may be discussed at or prior to this meeting.

Section 23-3. Applicability

Except as described below, a traffic impact study shall be required for all special use permits and site plans that meet the following criteria:

- (A) Special Use Permit. Estimated traffic generated by the permit exceeds 100 peak hour trips.
- (B) Planned Building Group. Estimated traffic generated by the development exceeds 100 peak hour trips.
- (C) Single-Family Residential. Estimated traffic generated by the development exceeds 100 peak hour trips.
- (D) Planned Unit Development. Estimated traffic generated by the development exceeds 100 peak hour trips.
- (E) Subdivisions. Estimated traffic generated by the development exceeds 100 peak hour trips.

Special use permits that produce more than 100 peak hour trips per day traffic may be exempted from the requirements to prepare and submit a traffic impact study if: (1) a traffic impact study has previously been prepared for this particular project or development, and (2) there is to be no change in land use or density that would increase travel, or (3) material is submitted to demonstrate that traffic created by the proposal when adding to existing traffic will not result in a need for transportation improvements. The Planning Board and Board of Commissioners will review material submitted in support of an exemption and will determine from that material whether or not to grant the exemption. All exemptions shall be concurred with by the NCDOT District 3 Office. If an exemption is granted, documentation of the exemption will be submitted as part of the staff recommendation.

The Town of Calabash may require any special use permit application to be accompanied by a traffic impact study when a road capacity or safety issue exists. If one is required, the Town will notify the applicant of the reason for the requirement.

If the project is reviewed as a Planned Development, only one traffic impact study is required for a special use permit and planned building group approval unless revisions are proposed that would increase traffic or change access.

Section 23-4. Capacity Analysis of the Existing System

An indication of the adequacy of the existing street system is a comparison of traffic volumes versus the ability of the streets to move traffic freely at a desirable speed. The ability of a street to move traffic freely, safely, and efficiently with a minimum delay is controlled primarily by the spacing of major devices utilized. Thus, the ability of a street to move traffic can be increased by restricting parking and turning movements, using proper sign and signal devices, and adding capacity by the application of other traffic engineering strategies.

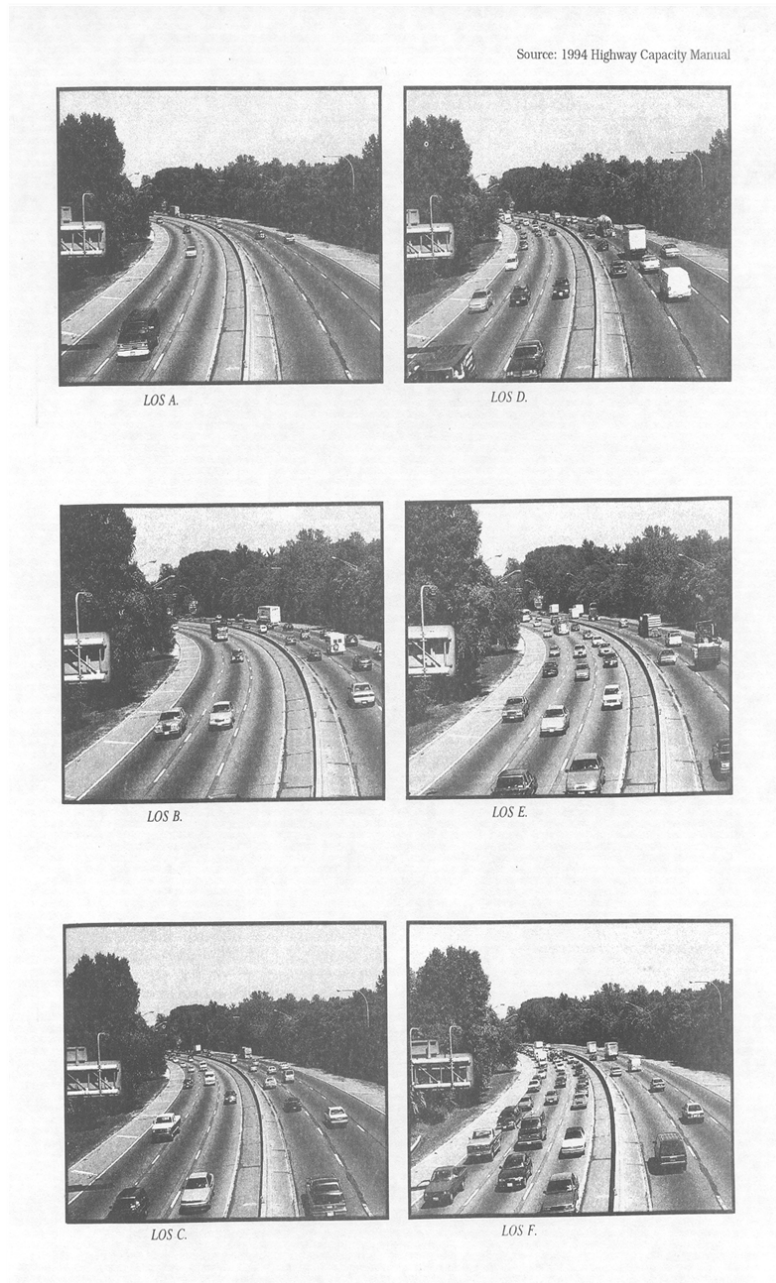
Capacity is the maximum number of vehicles which has a “reasonable expectation” of passing over a given section of roadway, during a given time period under prevailing roadway and traffic conditions. The relationship of traffic volumes to the capacity of the roadway will determine the level of service (LOS) being provided. Six levels of service have been selected for analysis purposes. They are given letter designations from A to F with LOS A representing the best operating conditions and LOS F the worst.

- (A) LOS A. Describes primarily free flow conditions. The motorist experiences a high level of physical and psychological comfort. The effects of minor incidents of breakdown are easily absorbed. Even at the maximum density, the average spacing between vehicles is about 528 feet or 26 car lengths.
- (B) LOS B. Represents reasonably free flow conditions. The ability to maneuver within the traffic stream is only slightly restricted. The lowest average spacing between vehicles is about 330 feet or 18 car lengths.
- (C) LOS C. Provides for stable operations, but flows approach the range in which small increases will cause substantial deterioration in service. Freedom to maneuver is noticeably restricted. Minor incidents may still be absorbed, but the

local decline in service will be great. Queues may be expected to form behind any significant blockage. Minimum average spacings are in the range of 220 feet or 11 car lengths.

- (D) LOS D. Borders on unstable flow. Density begins to deteriorate somewhat more quickly with increasing flow. Small increases in flow can cause substantial deterioration in service. Freedom to maneuver is severely limited, and the driver experiences drastically reduced comfort levels. Minor incidents can be expected to create substantial queuing. At the limit, vehicles are spaced at about 165 feet or nine car lengths.
- (E) LOS E. Describes operation at capacity. Operations at this level are extremely unstable, because there are virtually no usable gaps in the traffic system. Any disruption to the traffic stream, such as a vehicle entering from a ramp, or changing lanes, requires the following vehicles to give way to admit the vehicle. This can establish a disruption wave that propagates through the upstream traffic flow. At capacity, the traffic stream has no ability to dissipate any disruption. Any incident can be expected to produce a serious breakdown with extensive queuing. Vehicles are spaced at approximately six car lengths, leaving little room to maneuver.
- (F) LOS F. Describes forced or breakdown flow. Such conditions generally exist within queues forming behind breakdown points.

Graphic Representation of Various Roadway Levels of Service



Section 23-5. General Requirements and Standards

The traffic impact study shall contain the following information:

- (A) General Site Description. The site description shall include the size, location, proposed land uses, number of units and gross square footage by land use, existing land use and zoning, construction staging, and completion date of the

proposed land development to the extent known or able to be described at the time the application is prepared. If the development is residential, types of dwelling units and number of bedrooms shall also be included. A brief description of other major existing and proposed land developments within the study area shall be provided. The general site description shall also include probable socio-economic characteristics of potential site users to the extent that they may affect the transportation needs of the site (i.e., number of senior citizens).

- (B) Transportation Facilities Description. The description shall contain a full documentation of the proposed internal and existing external transportation system. This description shall include proposed internal vehicular, bicycle, and pedestrian circulation; all proposed ingress and egress locations; all internal roadway widths and rights-of-way, turn lanes, parking conditions, traffic channelizations; and any traffic signals or other intersection control devices at all intersections within the site.

The report shall describe the entire external roadway system within the study area. Major intersections in the study area and all intersections or driveways adjacent to or within 800 feet of the site shall be identified and sketched. All existing and proposed public transportation services and facilities within one-mile of the site shall also be documented. Future highway improvements, including proposed construction and traffic signalization, shall be noted. All proposed traffic signals shall be approved by the NCDOT District 3 Office. This information shall be obtained from North Carolina's Transportation Improvement Program and the Calabash Thoroughfare Plan. Any proposed roadway improvements due to proposed surrounding developments shall also be noted.

- (C) Existing Traffic Conditions. Existing traffic conditions shall be documented for all roadways and intersections in the study area. This shall include documentation of traffic accident counts as recorded by the NC Department of Transportation District Engineers Office, Town law enforcement, and the NC Highway Patrol. Existing traffic volumes for average daily traffic, peak highway hour(s) traffic, and peak development generated hour(s) traffic, if appropriate, shall be recorded. Manual traffic counts at major intersections in the study area shall be conducted, encompassing the peak highway and development generated hour(s), if appropriate, and documentation shall be included in the report. Existing average daily or peak-hour traffic counts made within one year of the study date may be used subject to Administrator approval. A volume/capacity analysis based upon existing volumes shall be performed during the peak highway hour(s) and the peak development generated hour(s), if appropriate, for all roadways and major intersections expected to be impacted by development traffic. Levels of service shall be determined for each signalized intersection or roadway segment analyzed above.

This analysis will determine the adequacy of the existing roadway system to serve the current traffic demand. Roadways and/or intersections experiencing levels of service E or F shall be noted as congestion locations (see Section 23-4).

- (D) Transportation Impact of the Development. Estimation of vehicular trips to result from the proposed development shall be completed for the average weekday, the average daily peak hours of highway travel in the study area, and if appropriate, the peak hour of traffic generation by the development. Vehicular trip generation rates to be used for this calculation shall be obtained from an accepted source such as “Trip Generation” (Institute of Transportation Engineers, Fourth Edition, 1987 as amended). These development-generated traffic movements, as estimated, and the reference source(s) and methodology followed shall be documented. These generated volumes shall be distributed to the study area and assigned to the existing roadways and intersections throughout the study area. Documentation of all assumptions used in the distribution and assignment phase shall be provided. All average daily traffic link volumes within the study area shall be shown graphically. Peak hour turning movement volumes shall be shown for signalized and other major intersections, including all access points to the development. Pedestrian and bicycle volumes at school crossings and as otherwise applicable shall be reported. Any characteristics of the site that will cause trip generation to vary significantly from average rates available in published sources shall be documented, including such factors as diversion of passer-by traffic, internal capture, staggered work hours, or use of transit.
- (E) Analysis of Transportation Impact. The total traffic demand that will result from construction of the proposed development shall be calculated. This demand shall consist of the combination of the existing traffic, traffic generated by the proposed development, and traffic due to other developments and other growth in traffic that would be expected to use the roadway at the time the proposed development is completed. If staging of the proposed development is anticipated, calculations for each stage of completion shall be made. This analysis shall be performed for average weekday traffic, the peak highway hour(s) and, if appropriate, peak development-generated hour(s) for all roadways and major intersections in the study area. Volume/capacity calculations shall be completed for all major intersections. It is usually at these locations that capacity is most restricted.

All access points and pedestrian crossings shall be examined for adequate sight distance and for the necessity of installing traffic signals. The traffic signal evaluation shall compare the projected traffic and pedestrian volumes to the warrants for traffic signal installation.

- (F) Conclusions and Recommended Improvements. Levels of service for all roadways and signalized intersections serving 10% or more of peak-hour project traffic shall be reported. All roadways and/or signalized intersections showing a level of service below D in urban or developed areas or below C in rural areas shall be considered deficient, and specific recommendations for the elimination of these

problems shall be listed (see Section 23-4). This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, external roadway and intersection design and improvements, traffic signal installation and operation including signal timing, and transit service improvements. All physical roadway improvements shall be shown on the site plan.

Section 23-6. Submission and Implementation

The traffic impact study will be submitted to the Administrator within the applicable time frame indicated below. The Administrator will review the study as part of the development review process. Recommendations will be incorporated into the approval process as indicated below.

(A) Special use permits.

- (1) Time of Submission. The traffic impact study shall be submitted to the Administrator with, and as a part of, the application for the special use permit.
- (2) Implementation. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the impact study to analyze its adequacy in solving any traffic problems that will occur due to the proposed use.

The Board of Commissioners or Board of Adjustment, as appropriate, shall consider the impact study and the analysis of the impact study before the application is approved or denied. The Board of Commissioners or Board of Adjustment, as appropriate, may decide that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate site traffic are mandatory for special use permit approval and may make these improvements conditions of approval, may require modifications in the use, or may deny the permit.

(B) Site Plan Approval and Subdivisions.

- (1) Time of Submission. The traffic impact study will be submitted to the Administrator with, and as a part of, the site plan.
- (2) Implementation. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the impact study to analyze its adequacy in solving any traffic problems that will occur due to development proposed on the site plan. The Administrator may recommend that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate site traffic are mandatory for site plan

approval and may require these improvements to be on the approved site plan.

ARTICLE 24. SUBDIVISION REGULATIONS

PART I. GENERAL PROVISIONS

Section 24-1. Purpose

The purpose of this Article is to establish procedures and standards for the development and subdivision of land within the jurisdiction of the town. It is further designed to provide for the orderly growth and development of the town for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-ways or easement for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This Article is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

Section 24-2. Acceptance of Streets

No street shall be maintained by the town nor street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until such final plat has been approved by the town.

Section 24-3. Thoroughfare Plan

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the Town, such part of such thoroughfare shall be shown.

Section 24-4. School Plans

This Article may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the Town Board. In order for this authorization to become effective, before approving such plans the Town Board and the Board of Education with jurisdiction over the area shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the school plans. Whenever a subdivision is submitted for approval which includes part or all of a school site to be reserved under the plan, the Town Board shall immediately notify the Board of Education and the Board shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Town Board or the Planning Board, and no site shall be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have eighteen (18) months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation to condemn the site within eighteen (18) months, after eighteen (18) months the subdivider may treat the land as freed of reservation.

Section 24-5. Unified Development Ordinance and Other Plans

Proposed subdivisions must comply in all respects with the requirements of this ordinance, and any other officially adopted plans.

Section 24-6. Design Standards for Stormwater Drainage

- (A) Design of Drainage Courses. Surface drainage course shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distances. Courses shall be of sufficient size to accommodate the drainage area without flooding.
- (B) Bottom Grade. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each three hundred (300) feet of horizontal distance.

Section 24-7. Sedimentation Pollution Control

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage network; the subdivider shall comply with all requirements of the “North Carolina Sedimentation Pollution Control Act of 1973.”

Section 24-8. Stormwater Runoff Disposal

All North Carolina Coastal Counties are subject to North Carolina Administrative Code 15 NCAC 2H.1000-Stormwater Runoff Disposal for the management of stormwater runoff. All stormwater runoff disposal plans shall be approved by the Division of Environment and Natural Resources (DENR) and delivered to the Administrator.

Section 24-9. Design Standards for Easements

Easements shall be provided as follows:

- (A) Utility Easements. Easements for underground or above ground utilities shall be provided where necessary across lots, or preferably centered on rear or side lot lines, and shall be at least ten (10) feet in width.
- (B) Drainage Easements. Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient.

PART II. MAJOR AND MINOR SUBDIVISIONS

Section 24-10. Plat Shall be Required on Any Subdivision of Land

Pursuant to NC General Statutes 160D-804, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place.

Section 24-11. Approval Prerequisite to Plat Recordation

Pursuant to NC General Statutes 160D-803, no final plat of a subdivision within the jurisdiction of the Town, as established in Section 1-4 of this Ordinance, shall be recorded by the Register of Deeds of Brunswick County until it has been approved as provided herein. To secure any approval of a final plat, the subdivider shall follow the procedures established in this Article.

Section 24-12. Procedures for Review of Major and Minor Subdivisions

All subdivisions shall be considered major subdivisions except those defined as minor subdivisions by Section 2-2. Major subdivisions shall be reviewed in accordance with the procedure in Sections 24-10 and 24-12 through 24-14. Minor subdivisions shall be reviewed in accordance with the provisions in Section 24-13. However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way from the property to be subdivided, the subdivision shall not qualify under the minor subdivision procedure. Furthermore, the minor subdivision procedure may not be used a second time within three (3) years on any property less than fifteen hundred (1,500) feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval. For qualifying, expedited minor subdivisions, to be approved administratively by the Administrator, only a final plat for recordation is required for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- (A) The tract or parcel to be divided is not exempted under G.S. 160D-802(a).
- (B) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (C) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (D) After division, no more than three lots result from the division.
- (E) After division, all resultant lots comply with all of the following:
 - (1) All lot dimension size requirements of the applicable zoning district.
 - (2) The use of the lots is in conformity with the applicable zoning district.
 - (3) A permanent means of ingress and egress is recorded for each.

Section 24-13. Procedure for Review of Minor Subdivisions & Family Membership Transfer

The subdivider shall submit the final plat so marked to the Administrator for approval. The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in NC General Statutes 47-30 and the Standards of Practice for Land Surveying in North Carolina.

Five (5) copies of the final plat shall be submitted; two (2) of these shall be on reproducible material; three (3) shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina.

The final plat shall be of a size suitable for recording with the Brunswick County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.

Submission of the final plat shall be accompanied by a filing fee as set forth in the Town's Fee Schedule. The final plat shall meet the specifications of this section. The following signed certificate shall appear on all five (5) copies of the final plat.

(A) Certificate of Ownership and Dedication.

I (We), _____, hereby certify that I am (we are) the owners of the property shown and described hereon which was conveyed to me (us) by deed recorded in Book ___, Page ___, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish the minimum building lines, and dedicate all drainage ways and other open space to public or private use as noted. Further, I (we) certify that the land as shown hereon is within the subdivision regulation jurisdiction of the Town of Calabash.

Owner(s)

Date

In accordance with G.S. 47-30: There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of

more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments, and shall be in substantially the following form:

(B) Certificate of Survey and Accuracy.

I, _____, certify that this plat was drawn under my supervision from an (actual survey made under my supervision) (deed description recorded in Book ___, Page ___, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book ___, Page ___; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D. 20____.”

Seal or Stamp

Surveyor

Registration Number

(C) I, _____, Registered or Professional Land Surveyor, certify to one or more of the following:

- (a) That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
- (b) That the survey is of an existing parcel or parcels of land;
- (c) That the survey is of another category, such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision;
- (d) That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his/her professional ability as to provisions contained in (a) through (c) above.

Registered or Professional Land Surveyor

The Administrator shall review the final plat and shall proceed with approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within twenty-eight (28) days of initial receipt of the plat.

During review of the final plat, the Zoning Administrator may appoint an engineer or surveyor to confirm the accuracy of the final plat, if agreed to by the Town Administrator. If errors are found which make the plat non-recordable, the costs shall be charged to the subdivider, and the plat shall not be recommended for approval until such errors have been corrected.

If the Administrator approves the final plat, he/she shall secure all required Town signatures and transmit the final plat to the subdivider for recording with the Brunswick County Register of Deeds office.

If the Administrator recommends conditional approval of the final plat with modifications to bring the plat into compliance, he/ she shall retain one (1) print of the plat for the Town's records and return his written recommendation and two (2) reproducible copies of the plat to the subdivider.

If the Administrator disapproves the final plat, he/she shall instruct the subdivider concerning resubmission of a revised plat, and the subdivider may make such changes as will bring the plat into compliance with the provisions of this Ordinance and resubmit same for reconsideration by the Administrator.

Failure of the Administrator to approve or make a written recommendation within twenty-eight (28) days after receipt of the subdivision plat shall constitute grounds for the subdivider to apply to the Town Board for approval.

If the Administrator approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Calabash, North Carolina, and that this plat has been approved by the Administrator for recording in the Office of the Register of Deeds of Brunswick County.

Town Clerk
Calabash, North Carolina

Date

If the final plat is disapproved by the Town Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) copy of the plat shall be retained by the Administrator for record; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Administrator.

If the final plat is approved by the Town Board, the original tracing and two (2) prints of the plat shall be retained by the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the Town Clerk.

The subdivider shall file the approved final plat with the Register of Deeds of Brunswick County within thirty (30) days of approval; otherwise, such approval shall be null and void.

Section 24-14. Major Subdivision Sketch Design Plan Submission and Review

- (A) Submission Requirements. The developer shall submit a sketch design plan prior to submitting a preliminary plat.
- (B) Procedural Requirements. The procedural requirements for receiving sketch plan approval are as follows: The subdivider shall submit to the Administrator or designated agent no less than twenty-one (21) days prior to the regularly scheduled Planning Board meeting at which time the plan will be considered, ten (10) copies of the proposed sketch prepared in accordance with the requirements of this Ordinance. An application for subdivision review shall accompany the sketch.
- (C) Sketch Plan Contents. The proposed sketch plan shall be prepared by a registered land surveyor or engineer, or registered landscape architect to render said service in the State of North Carolina and shall depict the following information:
 - (1) Vicinity map showing the name and location of the proposed subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
 - (2) The date that the sketch plan was prepared or revised;
 - (3) North arrow;
 - (4) Proposed total number of lots;
 - (5) Adjoining property lines within 100 feet of the property;
 - (6) Existing structures, wells, and septic systems;
 - (7) Proposed total acreage to be subdivided and acreage left in open spaces or for other uses;
 - (8) Proposed property boundaries and proposed lot lines;
 - (9) Existing public roads and accesses within 400 feet of the property;
 - (10) Name and address of owner or developer; and

- (11) Maps submitted shall include one (1) full-size set and ten (10) 11 x 17" copy sets.
- (D) Planning Board Review and Approval. The Planning Board shall review the sketch plan and any other reports or recommendations pertaining to the plan and shall approve, approve with conditions, or disapprove the sketch plan.
- (1) If the Planning Board grants the conditional approval of the sketch plan, the conditions and reasons thereof shall be stated in writing.
 - (2) If the Planning Board disapproves of the sketch plan, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this Ordinance with which the plan does not comply.
 - (3) If the Planning Board approves the sketch plan, the developer is authorized to proceed with the preparation of the preliminary plat.
 - (4) If the Planning Board fails to render a recommendation on the sketch plan within sixty (60) days from the date that the plan is initially reviewed by the Planning Board, the developer may proceed with the preparation of a preliminary plat.

Section 24-15. Major Subdivision Preliminary Plat Submission and Review

- (A) Submission Procedure. For every subdivision within the territorial and extra-territorial jurisdiction established by Section 1-4 of this Ordinance which does not qualify for the minor subdivision procedure, the subdivider shall submit a preliminary plat which shall be reviewed by the Planning Board and approved by the Town Board before any construction or installation of improvements may begin.

Twelve (12) copies of the preliminary plat (as well as any additional copies which the Administrator determines are needed to be sent to other agencies) shall be submitted to the Administrator of this Ordinance at least twenty-one (21) days prior to the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat. Preliminary plats shall meet the specifications in Section 24-13.

- (B) Review by Other Agencies. The Administrator may, at his discretion, or as directed by the Planning Board, submit copies of the plat to other agencies or contract services for review and comment.

- (C) Review Procedures.

- (1) The Administrator shall review the preliminary plat before the next regularly scheduled meeting of the Planning Board which follows at least twenty-one (21) days after the Administrator receives the preliminary plat.

- (2) The Administrator shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within twenty-one (21) days following receipt of the preliminary plat.
- (3) If the Administrator recommends approval of the preliminary plat, copies of the plat shall be submitted to the Planning Board with the Administrator's recommendation.
- (4) If the Administrator recommends conditional approval of the preliminary plat, copies of the plat and the recommendation shall be transmitted to the Planning Board, and a copy of the plat and Administrator's recommendation submitted to the subdivider.
- (5) If the Administrator recommends disapproval of the preliminary plat, copies of the plat and the Administrator's recommendation shall be transmitted to the Planning Board, and a copy of the plat and Administrator's recommendation submitted to the subdivider.
- (6) If the preliminary plat is disapproved by the Planning Board, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Town Board.
- (7) If the Planning Board does not make a written recommendation within forty-five (45) days after its first consideration of the plat, the subdivider may apply to the Town Board for approval or disapproval.
- (8) If the Town Board approves the preliminary plat, such approval shall be noted on two (2) copies of the plat. One (1) copy of the plat shall be retained by the Town, and one (1) copy shall be returned to the subdivider. If the Town Board approves the preliminary plat with conditions, approval shall be noted on two (2) copies of the plat along with a reference to the conditions. One (1) copy of the plat along with the conditions shall be retained by the Town, and one (1) copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the Town Board disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One (1) copy of the plat and the reasons shall be retained by the Town, and one (1) copy shall be returned to the subdivider.

Section 24-16. Major Subdivision Final Plat Submission and Review

- (A) Preparation of Final Plat and Installation of Improvements. Upon approval of the preliminary plat by the Town Board, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this Ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this Ordinance, or guaranteed

their installation as provided herein. No final plat will be accepted for review by the Planning Board or the Town Board unless accompanied by written notice by the Town Clerk acknowledging compliance with the improvement and guaranteeing standards of this Ordinance. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at this time; such portion shall conform to all requirements of this Ordinance. Developers must provide a digitized database with all final plats in a form to be determined by the Administrator.

(B) Improvements Guarantees.

(1) Agreement and Security Required. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. The cost of completing the improvements should be estimated by the Town's engineer. The agreement shall detail exactly what is to be guaranteed in an itemized fashion showing the estimated cost of completion as well as the bonding cost of 1.25 times that amount. Once said agreement is signed by both parties, and the security required herein is provided, the final plat may be approved by the Town Board, if all other requirements of this Ordinance are met. To secure this agreement, the subdivider shall provide, subject to the approval of the Town Board, either one or a combination of the following guarantees equal to 1.25 times the entire cost as provided herein:

- (a) Cash or Equivalent Security. The subdivider shall deposit cash or an irrevocable letter of credit, either with the Town of Calabash or in escrow with a financial institution designated as an official depository of the Town. The use of any instrument other than cash shall be subject to the approval of the Town Board with the exception that the Town Board may not accept any instrument whose value may be subject to fluctuation with the world market (such as but not limited to land and stocks). The amount of deposit shall be equal to 1.25 times the cost, as estimated by the Town's engineer and approved by the Town Board, of installing all required improvements.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Town Board an agreement between the financial institution and himself guaranteeing the following:

- (i) That such escrow account shall be held in trust until released by the Town Board, and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
- (ii) That in the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon

notification by the Town Board, and submission by the Town Board to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the Town the funds estimated to complete the improvement, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.

- (b) Verification. The Administrator shall verify all bonding certificates, irrevocable letters of credit or other instruments used.
- (2) Duration. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration in which case the Board of Commissioners shall approve an expiration date beyond one year. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration in which case the Board of Commissioners shall approve an expiration date beyond one year.
- (3) Extension. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall include the total cost of all incomplete improvements.
- (4) Default. Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Board, pay all or any portion of the bond or escrow fund to the Town of Calabash, up to the amount needed to complete the improvements based on an engineer's estimate. Upon payment, the Town Board, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the subdivider any funds not spent in completing the improvements.
- (5) Release of Guarantee Security. The Town Board may release a portion of any security posted as the improvements are completed, not to exceed once

per month. If the Town Board approves said improvements, then it shall immediately release any security posted.

- (6) Proof of other guarantees. The Town Board may require the subdivider to provide evidence of bonding/guarantees/sureties posted with other jurisdictions for infrastructure and utilities in the subdivision.

- (C) Submission Procedure. The subdivider shall submit the final plat, so marked, to the Administrator not less than twenty-one (21) days prior to the Town Board meeting at which it will be reviewed; further, then final plat for the first stage of the subdivision shall be submitted not more than twenty-four (24) months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Town Board upon written request of the subdivider on or before the twenty-four (24) month anniversary of the approval. For subdivisions developed in stages, each successive final plat for a stage of the subdivision shall be submitted for approval within twenty-four (24) months of the date of approval of the previous final plat for a stage of the subdivision, unless an extension is provided by the Town Board.

The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provision for plats, subdivisions, and mapping requirements set forth in NC General Statutes 47-30 and the Standards of Practice for Land Surveying in North Carolina.

Five (5) copies of the final plat shall be submitted, two (2) of these shall be on reproducible material, three (3) shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Brunswick County Register of Deeds.

The final plat shall be of a size suitable for recording with the Brunswick County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one sheet with appropriate match lines.

Submission of the final plat shall be accompanied with a filing fee as established by the Town's fee schedule. The final plat shall meet the specifications in Section 24-15 of this Ordinance.

The following signed certificates shall appear on all five (5) copies of the final plat.

- (1) Certificate of Ownership and Dedication. I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, which was conveyed to me (us) by deed recorded in Book ___, Page ___, and that I

(we) hereby adopt this plat of subdivision with my (our) free consent, establish the minimum building lines, and dedicate all streets, alleys, walks, parks, drainage ways, and other open spaces to public or private use as noted. Further, I (we) certify that the land as shown hereon is within the Subdivision Regulation jurisdiction of the Town of Calabash.

Owner(s) _____ Date

- (2) Certificate of Survey and Accuracy. I (We), _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book ___, Page ___, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book ___, Page ___; that this plat was prepared in accordance with GS 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D. 20____.

Seal or Stamp _____ Surveyor

Registration Number

- (3) I hereby certify that this subdivision, entitled _____, is generally suitable for individual septic tank systems and individual water supplies. However, this certification does not constitute “blanket issued subject to the approval of each individual lot by the Brunswick County Health Department and the issuance of an improvements permit for each lot as required by the General Statutes of North Carolina.” Any artificial drainage measures installed or proposed for installation in this subdivision to control water table must be properly maintained. Lots must be properly landscaped to control surface water in order to decrease the changes in septic tank system malfunctions.

Brunswick County Health Director _____ Date
Or Authorized Representative

- (4) I, _____, Registered or Professional Land Surveyor, certify to one or more of the following:
- (a) That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
 - (b) That the survey is of an existing parcel or parcels of land;

- (c) That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, and other exception to the definition of a subdivision;
- (d) That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his/her professional ability as to provisions contained in (a) through (c) above.

Registered or Professional Land Surveyor

- (5) Certification that private streets and roads meet the construction standards of this Ordinance, signed by the subdivider's engineer or surveyor.
- (6) Public subdivision streets and roads Construction Standards Certification signed by the District Highway Engineer.
- (7) I hereby certify that the subdivision as depicted hereon has been granted final approval pursuant to the Town of Calabash Subdivision Regulations.

Town Clerk, Town of Calabash

Approval expires if not recorded on or before _____ (date) and must be resubmitted for approval.

- (8) I hereby certify that streets, utilities, and other improvements have been installed in an acceptable manner and according to Town specifications in the subdivision entitled _____ or that a security bond or irrevocable letter of credit in the amount of \$_____ have been posted with the Town of Calabash to ensure the installation thereof.

Town Clerk

Date

- (9) In order for the Planning Board to approve the final plat, all of the above certificates must be properly signed and dated. The Planning Board shall review the final plat at or before the next regularly scheduled meeting which follows at least twenty-one (21) days after the Administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within forty-five (45) days of its first consideration.
- (10) During its review of the final plat, the Planning Board may appoint a Registered Land Surveyor to confirm the accuracy of the final plat, if agreed to by the Town Administrator. If errors are found which make the plat non-

recordable, the costs shall be charged to the subdivider, and the plat shall not be recommended for approval until such errors have been corrected.

- (11) If the Planning Board approves the final plat, it shall transmit all copies of the plat and its written recommendations to the Town Board through the Administrator.
 - (12) If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one (1) print of the plat for its minutes, return its written recommendation and two (2) reproducible copies of the plat to the subdivider, and transmit one (1) print of the plat and its written recommendation to the Town Board through the Administrator.
 - (13) If the Planning Board disapproves the final plat, it shall instruct the subdivider concerning resubmission of a revised plat, and the subdivider may make such changes as will bring the plat into compliance with the provisions of this Ordinance and resubmit same for reconsideration by the Planning Board, or appeal the decision to the Town Board.
 - (14) Failure of the Planning Board to make a written recommendation within forty-five (45) days shall constitute grounds for the subdivider to apply to the Town Board for approval.
 - (15) If the Planning Board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the Town Board, the Town Board shall review and approve or disapprove the final plat within forty-five (45) days after the plat and recommendations of the Planning Board have been received by the Administrator.
- (D) If the Town Board approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Calabash, North Carolina, and that this plat has been approved by the Town Board for recording in the Office of the Register of Deeds of Brunswick County.

Date

Town Clerk
Calabash, North Carolina

- (1) If the final plat is disapproved by the Town Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) copy of the plat shall be retained by the Town Board as

part of its proceedings; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board and Town Board.

- (2) If the final plat is approved by the Town Board, the original tracing and one (1) print of the plat shall be retained by the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the Town Clerk, and one (1) print shall be returned to the Town Board for its records.
- (3) The subdivider shall file the approved final plat with the Register of Deeds of Brunswick County within thirty (30) days of the Town Board's approval; otherwise, such approval shall be null and void.

Section 24-17. Information to be Contained in or Depicted on Preliminary and All Final Plats

The preliminary and final plats shall depict or contain at a minimum the information indicated in the following table. An "x" indicates that the information is required.

INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
TITLE BLOCK CONTAINING:			
– Property Designation	x	x	x
– Name of Owner		x	x
– Location (including Township, county, and state)	x	x	x
– Date or dates survey was conducted and plat prepared	x	x	x
– A scale of drawing in feet per inch listed in words or figures		x	x
– A bar graph		x	x
– Name, address, registration number, and seal of the Registered Land Surveyor		x	x
The name of the subdivider		x	x
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area. Scale: 1" = 400'	x	x	x
Corporate limits, Township boundaries, ETJ boundary, county lines if on the subdivision tract		x	x

INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision		X	X
The registration numbers and seals of the professional engineers		X	X
Date of plat preparation	X	X	X
North arrow and orientation	X	X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown (does not have to be accurate w/bearings and distances for sketch plan)	X	X	
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands			X
The names of owners of adjoining property		X	X
The names of any adjoining subdivisions of record or proposed and under review		X	X
Building line minimum (setbacks) per lot		X	X
The zoning classifications of the tract to be subdivided and adjoining properties		X	
Existing property lines on the tract to be subdivided and on adjoining properties		X	X
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining		X	X
Proposed lot lines, lot and block numbers, and approximate dimensions (for sketch plan only show proposed lot lines)	X	X	
The lots numbered consecutively throughout the subdivision			X
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, wetland areas, and any other natural features affecting the site		X	

INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
The exact location of the flood hazard, floodway, and floodway fringe areas from the Brunswick County Official Flood Insurance Map		X	X
Base Flood elevation data for subdivisions which contain at least fifty (50) lots or five (5) acres, whichever is less		X	X
THE FOLLOWING DATA CONCERNING STREETS:			
– Proposed public streets		X	X
– Existing and platted streets on adjoining properties and in the proposed subdivision Thoroughfare plan road as approved in Thoroughfare Plan for Town		X	X
– Rights-of-way, location, and dimensions in accordance with Part IV of this Article		X	X
– Pavement widths		X	X ¹
– Approximate grades		X	X ¹
– Design engineering data for all corners and curves		X	X
– Typical street cross-sections		X	X ¹
– Street names		X	X
– Street maintenance agreement (if not detailed in Covenants/Deed Restrictions)			X

INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
– Type of street dedication; all streets must be designated either “public” or “private.” The subdivider must submit all public street plans to the Administrator for approval prior to preliminary plat approval. Where public streets are involved which will not be dedicated to the Town of Calabash, the subdivider must submit the following documents to the NC Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths, and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas		x	x
– Where streets are dedicated to the public, but not accepted into the Town of Calabash system or the state system before lots are sold, a statement explaining the status of the street in accordance with Part IV of this Article			x
– If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the North Carolina Department of Transportation, Division of Highways’ Manual on Driveway Regulations. Evidence that the subdivider has applied for such approval		x	
Evidence that the subdivider has obtained NC DOT driveway approval			x
THE LOCATION AND DIMENSION OF ALL OF THE FOLLOWING:			
– Utility and other easements		x	x

INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
– Riding trails		X	X
– Natural buffers		X	X
– Pedestrian or bicycle paths		X	X
– Parks and recreation areas with specific type indicated		X	X
– Areas to be dedicated to or reserved for public use		X	X
– Areas to be used for purposes other than residential with the zoning classification of each stated		X	X
– The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership) of recreation and open space lands		X	
THE PLANS FOR UTILITY LAYOUTS INCLUDING:			
– Sanitary sewers		X	X
– Storm sewers		X	X
– Other drainage facilities, if any		X	X
– Water distribution lines		X	X
– (Note: for Preliminary Plat simply demonstrate the planned concept) illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains, and gate valves.			X
– Fire hydrants shall be located in accordance with the NC Fire Code Appendix C Fire Hydrant Locations and Distribution and shall be reviewed by the Calabash Fire Inspector or local Fire Chief prior to preliminary plat approval. (Amended 4/9/19*)		X	X
Design Plans for individual water supply and sewage disposal systems and stormwater, if any			X
Profiles based upon Mean Sea Level datum for sanitary sewers and storm sewers			X
SITE CALCULATIONS INCLUDING:			
– Acreage in total tract to be subdivided	X	X	X

INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
– Acreage in parks and recreation and open space areas and other nonresidential areas		X	X
– Total number of parcels created		X	X
– Acreage in the smallest lot in the subdivision		X	X
– Linear feet in streets (provide an estimate at Preliminary and exact at Final)		X	X
– The Name and location of any property or building within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places		X	X
– Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute			X
– The accurate locations and descriptions of all monuments, markers, and control points			X
– A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas or open space areas are established (if a draft is available at Preliminary, please provide)			X
– Where land disturbing activity is an acre or more in size, a copy of the erosion control plan submitted to the appropriate office of the North Carolina Department of Environment and Natural Resources, which complies with NCGS 113A, Article 4 (Sedimentation Pollution Control Act of 1973). Evidence of approval must be provided prior to or with submittal of a final plat for approval.			X

INFORMATION	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
– Topographic maps with contour intervals of no greater than five (5) feet at a scale of no less than one (1) inch equals four hundred (400) feet		x	x
– Show the designation of any 404 wetland areas as determined by the Wilmington District office of the U.S. Army Corps of Engineers included within the boundaries of the property to be subdivided		x	x
– Boundaries of applicable areas of environmental concern in accordance with the state guidelines for AEC's (15A NCAC 7H) pursuant to the Coastal Area Management Act of 1974		x	x
– All certifications required in Section 24-14			x
– Any other information considered by either the subdivider, the Planning Board, or Town Board, to be pertinent to the review of the plat	x	x	x
– All mapping shall comply with G.S. 47-30	x	x	x
– Developers must provide a digitized database.			x
Soil and Stormwater requirements as per Town Standards		x	x

¹Required on final plat only for minor subdivisions.

Section 24-18. Recombination of Land

- (A) Any plat or any part of any plat may be nullified by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- (B) Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.
- (C) Such an instrument shall be executed, acknowledged, or approved, and recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

Section 24-19. Resubdivision Procedures

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

Section 24-20. Flag Lots

Flag lots shall be permitted in approved cluster subdivisions (refer to Article 13, Residential Cluster Development).

PART III. DESIGN STANDARDS FOR RECREATION AREAS

Section 24-21. Recreation Areas

Every person or corporation who subdivides ten (10) acres or more of land for residential purposes shall be required to dedicate a portion of such land, as set forth in this section for the purpose of providing open space sites, recreation areas, or parks to serve future residents of the neighborhood within which the subdivision is located. As an alternative to the public dedication of such land and with approval of the Town Board, the subdivider may:

- (A) Dedicate such land to a homeowners' association or other nonprofit ownership; provided, the provisions listed in Section 24-22 of this Article are made;
- (B) Make provision for an equitable amount of land in a nearby location plus improvements; and
- (C) Pay to the Town a fee in lieu of dedication. The payment in lieu of dedication shall be equal to the appraised value of the required acreage of land within the subdivision based on an appraisal prepared by a licensed appraiser and submitted by the developer. If the Town disagrees with the submitted appraisal, it may have a second appraisal prepared. If the appraisals are within fifteen percent (15%) of each other, the developer's appraisal will be utilized to establish value. If the appraisals differ by more than fifteen percent (15%), the value will be based on the average of the two appraisals.

Section 24-22. Amount of Land

The amount of land required to be dedicated by a subdivider or developer shall be eight (8) acres per one thousand (1,000) persons. The actual amount of land to be reserved shall be determined by the following formula:

Total number of dwelling units or lots	X	2	X	.008 acres per person	=	Amount (average) reservation
--	---	---	---	--------------------------	---	------------------------------------

Section 24-23. Suitability Requirements

Criteria for evaluating suitability of proposed recreation, park and open space areas shall include but not be limited to the following, as determined by the Town Board after recommendations of the Planning Board:

- (A) Unity. The dedicated land shall form a single parcel of land, except where the Planning Board determines that two (2) parcels or more would be in the public interest. The Planning Board may also determine that a connecting corridor of open space is in the public interest, in which case the path shall not be less than thirty (30) feet wide for the purpose of accommodating a path or trail.
- (B) Shape, Topography, and Subsoils. The shape, topography and subsoils of the dedicated parcel or parcels of land shall be such as to be usable for active recreation (play areas, ballfields, tennis courts or similar recreation uses).
- (C) Location. The dedicated or reserved recreation or park land shall be located so as to reasonably serve the recreation needs of the subdivision for which the dedication was made.
- (D) Accessibility. Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement shall be not less than thirty (30) feet wide.
- (E) Usability. The dedicated land shall be usable for recreation. Lakes may not be included in computing dedicated land area unless acceptable to the Planning Board. Where the Planning Board determines that recreation needs are being adequately met, either by other dedicated parcels or existing recreation facilities, then land that is not used for recreation may be dedicated as open space.
- (F) Plans. Municipal and county plans shall be taken into consideration when evaluating land proposals for dedication.
- (G) Vegetative Cover. The vegetative cover, if feasible, shall be sufficient to lend attractiveness to the land parcel, protection from the sun's rays and suitability for a variety of a nature related recreation opportunities.

Section 24-24. Homeowners Association or Nonprofit Organizations

Where park or recreation space is deeded to a homeowners association or any nonprofit ownership in lieu of public dedication or fee payment, the subdivider or owner shall record a declaration of covenants and restrictions that will govern the open space of the association or nonprofit organization. This shall be submitted with the application for final plat approval. Provisions shall include but not be limited to the following:

- (A) The homeowner's association shall be established before recording final plat.

- (B) Membership shall be mandatory for each home buyer and all successive buyers.
- (C) The association shall be responsible for the liability insurance, local taxes, and the maintenance of recreation and other facilities.
- (D) Any sums levied by this association that remain unpaid shall become a lien on the individual homeowner's property which shall be subordinate only to tax and mortgage liens.
- (E) If all or any portion of property held by the association is being disposed of, or if the association is dissolved, adequate open space shall be deeded to the Town with Town Board approval to satisfy the requirements for public recreation facilities under this Section.

Section 24-25. Limitations

Nothing herein shall be construed to limit the amount of privately controlled open-space land which may be included under an agreement, over and above the recreation and park site obligation.

Section 24-26. Adjustments

Notwithstanding provisions of this section to the contrary, the Town Board may, in cases of an unusual or exceptional nature, allow adjustments in the dedication regulations established in and required by this section. Such adjustments shall be reviewed by the Planning Board before the action by the Town Board.

PART IV. STREETS

Section 24-27. Coordination and Continuation of Streets

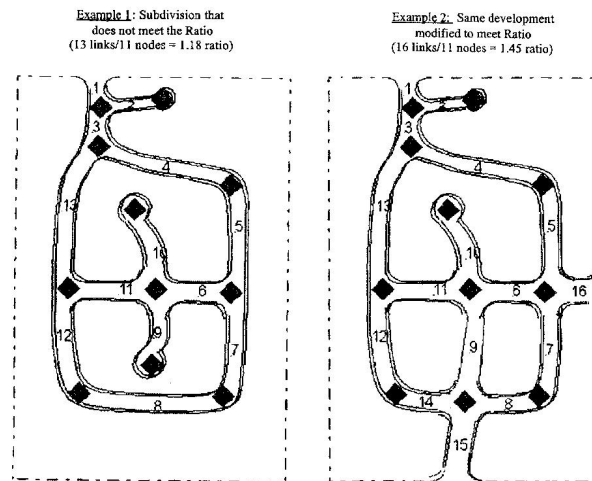
The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area, and where possible, existing principal streets shall be extended.

Section 24-28. Street Connectivity Requirements

- (A) An interconnected street system is necessary in order to protect the public health, safety, and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance nonvehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes.
- (B) All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.

- (C) The street network for any subdivision shall achieve a connectivity ratio of not less than 1.40 (see example in Figure 1). The phrase “connectivity ratio” means the number of streets links divided by the number of nodes or link ends, including cul-de-sac heads. A “link” means and refers to that portion of a street defined by a node at each end or at one end. Approved stubs to adjacent property shall be considered links. However, alleys shall not be considered links. A “node” refers to the terminus of a street or the intersection of two (2) or more streets, except that intersections that use a roundabout shall not be counted as a node. For the purposes of this section, an intersection shall be defined as:
- (1) Any curve or bend of a street that fails to meet the minimum curve radius as established in the second table of Sections 24-33 and 24-43, or
 - (2) Any location where street names change (as reviewed and approved by the Administrator).
- (D) For the purposes of this section, the street links and nodes within the collector or thoroughfare streets providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.
- (E) Residential streets shall be designed so as to minimize the length of local streets, to provide safe access to residences with minimal need for steep driveways and to maintain connectivity between and through residential neighborhoods for autos and pedestrians.
- (F) Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way, and improvements shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated, or established by other means.
- (G) Exemption. New subdivisions that intend to provide one new cul-de-sac street shall be exempt from the connectivity ratio standard as set forth in this section, provide the Administrator determines that there is:
- (1) No options for providing stub streets due to topographic conditions, adjacent developed sites, or other limiting factors; and
 - (2) Interconnectivity (use of a looped road) within the development cannot be achieved or is unreasonable based on the constraints of the property to be developed.

Figure 1



Section 24-29. Private Streets

Streets designated as private may be allowed in subdivisions when in the opinion of the Board of Commissioners, they provide adequate ingress and egress onto collector streets, and sufficient assurance is provided through a legally established homeowners' association, that the street shall be properly maintained.

All such streets shall be designated a "Private Street" on the preliminary plans and final plats. Whenever a private street intersects a US or NC highway or NC secondary road, a statement of approval for the intersection, signed by the District Engineer, North Carolina Department of Transportation, Division of Highways for Brunswick County, shall be submitted concurrent with the final plat.

All private streets must meet Department of Transportation standards for construction and maintenance.

A homeowners' association shall be established for each subdivision containing private streets and drainage systems. The final plat for each such subdivision shall contain a certificate indicating the book and page number of the homeowners' association covenants, conditions, and restrictions. The covenants, conditions, and restrictions shall specify lot owners' responsibilities for maintenance of private streets and drainage systems, and shall provide for assessments to finance all maintenance activities. Covenants shall provide that the homeowners' association will construct all stub streets prior to offering any connecting for acceptance by NCDOT or the town. Final plats for subdivisions containing private streets and drainage improvements will not be approved until the subdivider's homeowners' association documents have been submitted and approved by the Board of Commissioners.

Section 24-30. Marginal Access Streets

Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial street. Where reverse frontage is established, private driveways shall be prevented from having direct access to the expressway.

Section 24-31. Subdivision Street Disclosure Statement

All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6, and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

Section 24-32. Half-Streets

The dedication of half streets shall be prohibited.

Section 24-33. Street Names

Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Brunswick County GIS.

Section 24-34. Collector and Minor Streets

Collector and minor streets shall be so laid out that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, and other places of public assembly.

Section 24-35. Design Standards

[Section 24-35 Design Standards (takes the place of 24-35 through 24-47)]

Unless otherwise noted herein, the design of all streets and roads within the jurisdiction of this Ordinance shall be in accordance with the latest edition of the North Carolina Department of Transportation, Subdivision Roads, Minimum Construction Standards (the latest edition to be included as an addendum or appendix to the Town of Calabash UDO). The following substitutions shall be read into the aforementioned specifications:

“State” or “Commission” shall be replaced by “Town of Calabash.”

“Resident Engineer” shall be replaced by “Town Engineer” or its authorized representative.

“Sampling and Testing by Commission” shall be replaced by “sampling and testing by the Town or its duly authorized testing agent.”

“Inspection by Commission” shall be replaced by “Inspection by Town or its duly authorized representative.”

PART V. UTILITIES

Section 24-48. Water and Sewerage Systems

- (A) When available, the subdivider shall connect to the water and sewerage systems owned and operated by the County. For all residential and commercial development, the County may require that the developer install lines larger than required by the development in order to support future growth.
- (B) Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the County Health Department shall be based upon a field investigation. The field investigation for sewage disposal shall include a sufficient number of percolation tests (at least one per acre) to determine absorption capacity of the soil and test holes at least six (6) feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.
- (C) All utilities shall be installed per County requirements at the direction of the County Public Utilities Director.

Section 24-49. Electric Power

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- (A) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.
- (B) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 24-50. Telephone Service

Every principal use and every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- (A) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is necessary.
- (B) If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 24-51. Underground Utilities

- (A) All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of this Ordinance shall be placed underground in accordance with the specifications and policies of the respective utility service providers with notification of the Town. In no case shall a developer be required to bury a power line existing above ground and outside of property to be subdivided.
- (B) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this Ordinance, than all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility service providers with notification of the Town. In no case shall a developer be required to bury a power line existing above ground and outside of property to be subdivided.

Section 24-52. Utilities to be Consistent with Internal and External Development

- (A) Whenever it can reasonably be anticipated that utility facilities constructed in one, upon the effective date of this Ordinance, development will be extended to serve other adjacent or nearby developments, such utility facilities (i.e., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

- (B) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

PART VI. LOT STANDARDS

Section 24-53. Lot Standards

The following standards shall apply to all lots within a proposed subdivision:

- (A) Conformation to Zoning. All lots shall conform to the dimensional requirements and the setback and side yard requirements as set forth in Article 11 of this Ordinance.
- (B) Lots located on the turning circle of a cul-de-sac may have individual minimum frontages of less than the minimum frontage set forth in Article 11 provided the lot has the Article 11 minimum width (75) feet from the rear property line and the entire lot meets the minimum square footage shown in Article 11.
- (C) Lots Restricted to Public Streets and Approved Private Streets. Every lot shall front or abut on a public street or approved private street.

Section 24-54. Land Disturbing Activities

There will be no land disturbing activities in any subdivision until all applicable/required local, state, and federal permits are approved and submitted to the Town of Calabash.

Section 24-55. Exceptions

- (A) Exceptions. The Planning Board may recommend and the Board of Commissioners approve subdivision plats which vary from the requirements of design, but not of procedure or improvement. Such an exception may be granted only where topographic or other existing physical conditions are such that compliance with the requirements of this Ordinance would cause an unusual and unnecessary hardship on the subdivider above and beyond what other subdividers would meet, and provided that such exceptions will not have the effect of nullifying the interest and purpose of these requirements. Such exceptions shall be approved only with a majority affirmative vote of all Board of Commissioners members.
- (B) Procedure for Exceptions.
 - (1) The subdivider must submit a written request stating the reasons for each modification. The Planning Board and Board of Commissioners may require such conditions as will, in its judgement, preserve the spirit and intent of these regulations. These conditions may include but shall not be limited to:

surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments, as will assure conformity to and achievement of the plan.

- (2) Any modifications thus authorized are required to be entered in writing in the minutes of the Planning Board and Board of Commissioners and the reasonings on which the departure was justified set forth.

Section 24-56. Construction Procedures

- (A) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.
- (B) No building, zoning, or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Ordinance until the final plat has been approved and recorded. The subdivider, prior to commencing any work within the subdivision, shall make arrangements to provide for adequate inspections by the Town of Calabash. The approving authorities having jurisdiction or their representatives, shall inspect and approve all completed work prior to release of the sureties.
- (C) **As-Built Drawings Required.** Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or sewer line, furnish the town with a copy of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development.

Section 24-57. Exemptions

The Zoning Administrator may grant a waiver exempting the following from the requirements of the subdivision regulations contained herein:

- (A) Family Member Transfer as noted in Section 24-13 of this Article and defined in Article 2 of this Unified Development Ordinance.
- (B) Family Cemeteries as defined in Article 2 and meeting the requirements of Article 10 of this Unified Development Ordinance.