

LAND USAGE

***BUILDING CODE;
THE OFFICE OF THE TOWN BUILDING INSPECTOR;
STREET NAMES AND BUILDING NUMBERS***

BUILDING CODE; THE OFFICE OF THE TOWN BUILDING INSPECTOR

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GENERAL PROVISIONS

§ 150.01 BUILDING INSPECTOR; OFFICE CREATED.

There is hereby created the office of Town Building Inspector. The Chief Building Inspector and any other building inspector employed by the Town shall have the powers and duties set forth in this chapter.

('75 Code, § 4-1; Am. Ord. GP#2008248, passed 1/12/09)

§ 150.02 DUTIES OF BUILDING INSPECTOR.

The Building Inspector shall have the following duties:

(A) Building Code. The Building Inspector shall enforce the provisions of the North Carolina State Building Code (hereafter the “Code” or “Building Code”), as most recently adopted by the North Carolina Building Code Council and as provided for in that Code, the North Carolina General Statutes and this chapter. The Building Inspector shall also issue building permits and certificates of occupancy in accordance with the Building Code, other State law, and this chapter;

(B) Minimum Housing Code. The Building Inspector shall enforce the provisions of the Town of Aberdeen Minimum Housing Code within the corporate limits and the extraterritorial jurisdiction of the Town;

(C) Zoning and Subdivisions. The Building Inspector is authorized to enforce the provisions of the zoning and subdivision ordinances of the Town within the corporate limits and the extraterritorial jurisdiction of the Town; and

(D) Other. The Building Inspector shall carry out all other duties required of him or her by State law, the ordinances of the Town, or order of the Town Board or Town Manager.
(’75 Code, § 4-2)(Am. Ord., passed 5-13-02; Am. Ord., passed 4/14/08; Am. Ord. GP#2008248, passed 1/12/09)

§ 150.03 COMPLIANCE WITH THE NORTH CAROLINA STATE BUILDING CODE REQUIRED.

All buildings and structures, including but not limited to swimming pools, within the corporate limits and the extraterritorial jurisdiction of the Town that are hereafter constructed, reconstructed, repaired, renovated, demolished or otherwise altered or moved shall conform to the requirements, minimum standards, and other provisions of the Building Code.

('75 Code, § 4-3; Am. Ord. GP#2008248, passed 1/12/09) Penalty, see § 10.99

§ 150.04 PERMITS REQUIRED.

Building, plumbing, electrical, and mechanical permits, and any other permit required by the Building Code shall be obtained from the Building Inspector prior to beginning any construction, reconstruction, repair, renovation, demolition or alteration of a building or structure, as required by the Building Code. Permits shall be also obtained from the Building Inspector prior to moving any building or structure, as required by the Building Code.

(’75 Code, § 4-4; Am. Ord. GP#2008248, passed 1/12/09)

§ 150.05 APPLICATION FOR PERMITS.

Applications for building, plumbing, electrical and mechanical permits shall be made to the Building Inspector, who shall issue such permits upon payment of the appropriate fees and proof of compliance with applicable statutes, regulations and ordinances by the applicant.
(’75 Code, § 4-5; Am. Ord. GP#2008248, passed 1/12/09)

**§ 150.06 PERMIT FEES AND COPY OF THE NORTH CAROLINA STATE
BUILDING CODE.**

The fees to be paid for a permit required by Section 150.04, above, shall be as determined by the Board of Commissioners from time to time. A schedule of such fees, shall be maintained on file in the office of the Town Clerk where it shall be available for public inspection during the normal office hours of the Town Clerk.

An official copy of the North Carolina State Building Code shall be kept on file in the office of the Building Inspector and shall be available for inspection during the normal office hours of the Building Inspector.

(Am. Ord. GP#2008248, passed 1/12/09)

§ 150.07 ENFORCEMENT.

The Building Inspector may enforce the Building Code using any one or combination of those powers enumerated in G.S. Chpt. 160A, Art. 19, Part 5, "Building Inspections," including the following:

- (A) Conducting inspections of work in progress, pursuant to G.S. § 160A-420;
- (B) Issuing stop work orders, pursuant to G.S. § 160A-421;
- (C) Revoking permits, pursuant to G.S. § 160A-422;
- (D) Conducting periodic inspections, pursuant to G.S. § 160A-424;
- (E) Ordering defects in buildings to be corrected, pursuant to G.S. § 160A-425;
- (F) Pursuant to G.S. § 160A-426, declaring those buildings to be unsafe that appear to the Building Inspector to be especially dangerous to life because of their liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes. In these cases, the Building Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building;
- (G) Issuing an order to take corrective action, pursuant to G.S. § 160A-428 and 160A-429;
- (H) Pursuant to directions from the Town Board, taking any one or combination of enforcement actions authorized by G.S. § 160A-432;
- (I) Enforcing the Building Code using the alternative method established in G.S. 160A-439 and section 150.08 of this Code of Ordinances; and
- (J) Levying civil penalties for failure to comply with an order issued by the Building Inspector. All civil penalties levied shall be in accordance with Section 10.98 of the Code of Ordinances. The imposition of civil penalties shall not limit the use of any other lawful remedies available to the Town for the enforcement of any ordinances adopted pursuant to this section; and

(Am. Ord. GP#2008248, passed 1/12/09)

§ 150.08 ALTERNATE ENFORCEMENT METHOD FOR NONRESIDENTIAL
BUILDINGS AND STRUCTURES; REPAIR, CLOSING AND/OR
DEMOLITION AUTHORIZED.

(A) Purpose.

Pursuant to G.S. § 160A-439, the purpose of this section is to promote the public health, safety and welfare by providing alternative enforcement methods for nonresidential buildings or structures that fail to meet the minimum standards of the Building Code for maintenance, sanitation, and/or safety and are otherwise dangerous and injurious to public health, safety, and welfare. The Building Inspector may, in his or her discretion, choose whether to initiate an enforcement action pursuant to either or both this section or other sections of this chapter.

(B) Jurisdiction.

This section may be applied only to those buildings or structures within the corporate limits of the Town; this section may not be applied to buildings or structures located within the extraterritorial jurisdiction of the Town.

(C) Definitions.

As used in this section, the following shall be defined as follows:

(1) Parties in interest: all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

(2) Vacant manufacturing facility: any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

(3) Vacant industrial warehouse: any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

(D) Powers of the Building Inspector

In addition to the powers set forth elsewhere in this chapter, the Building Inspector shall have the following powers to carry out and effectuate the purpose and provisions of this section:

(1) To investigate nonresidential buildings and structures in the Town to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized;

(2) To administer oaths, affirmations, examine witnesses, and receive evidence;

(3) To enter upon premises pursuant to subsection (E)(1) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the Town Board; and

(5) To delegate any of his or her functions and powers under this section to other Town officers and agents, provided that such agents are appropriately certified as North Carolina Building Inspectors.

(E) Enforcement Process.

(1) Investigation. Whenever it appears to the Building Inspector that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet minimum standards of the Building Code, the Building Inspector shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. § 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(2) Complaint and Hearing. If the preliminary investigation discloses evidence of a violation or violations of the Building Code, the Building Inspector shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that includes the following information:

(a) That a hearing will be held before the Building Inspector (or his or her designated agent) at the Town Hall or at the building or structure, scheduled not less than ten (10) days nor more than thirty (30) days after the serving of the complaint

(b) That the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and

(c) That the rules of evidence prevailing in courts of law or equity shall not be controlling during the hearing.

(3) Order. If, after notice and hearing, the Building Inspector determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards of the Building Code, the Building Inspector shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations of this section.

(4) Limitations on Orders.

(a) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards of the Building Code or to vacate and close the nonresidential building or structure for any use.

(b) (1) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Town Board determines, after a public hearing as provided in subsection (E)(4)(b)(2), below, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards of the North Carolina State Building Code.

(b) (2) Public hearings conducted pursuant to subsection (E)(4)(b)(1), above, shall be held only after written notice of the hearing is provided to the owner and parties in interest in the building or structure at issue, not less than ten (10) nor more than (30) days prior to the hearing. Such notice shall be served in accordance with subsection (E)(7), below.

(c) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(5) Action by Town Board Upon Failure to Comply With Order.

(a) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the Town Board may adopt an ordinance ordering the Building Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Building Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the Moore County Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Building Inspector may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Building Inspector may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(b) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the Town Board may adopt an ordinance ordering the Building Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Building Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Building Code. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the Moore County Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Building Inspector may cause the building or structure to be removed or demolished.

(6) Action by Town Board Upon Abandonment of Intent to Repair.

If the Town Board has adopted an ordinance or the Building Inspector has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the Town Board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Town Board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(a) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards of the Building Code is less than or equal to fifty

percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within ninety (90) days; or

(b) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards of the Building Code exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within ninety (90) days.

The ordinance shall be recorded in the office of the Register of Deeds in Moore County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Building Inspector shall effectuate the purpose of the ordinance.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five (5) years before the governing body may take action under this subsection.

(7) Service of Complaints and Orders.

(a) Complaints or orders issued by the Building Inspector pursuant to an ordinance adopted under this section shall be served upon owners and parties in interest either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, and the Building Inspector makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(8) Liens.

(a) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Building Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Chpt. 160A, Art. 10.

(b) The amount of the costs is also a lien on any other real property of the owner located within the Town of Aberdeen except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(c) If the nonresidential building or structure is removed or demolished by the Building Inspector, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Building Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the Town Board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(9) Ejectment.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Building Inspector may file a civil action in the name of the Town of Aberdeen to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The Moore County Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Building Inspector produces a certified copy of an ordinance adopted by the Town Board pursuant to subsection (E)(5) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30.

An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of the judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding and the Town Board has ordered the Building Inspector to proceed to exercise his duties under subsection (E)(5) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(10) Civil Penalty.

The Town Board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. All civil penalties levied shall be in accordance with section 10.98 of this Code of Ordinances. The imposition of civil penalties shall not limit the use of any other lawful remedies available to the Town for the enforcement of any ordinances adopted pursuant to this section.

(11) Powers Supplemental.

(a) The powers conferred by this section are supplemental to the powers conferred by any other law.

(12) Appeals.

Appeals may be taken from any decision or order of the Building Inspector to the Board of Adjustment. Any person aggrieved by a decision or order of the Building Inspector shall have the remedies provided in G.S. § 160A-446.

(13) Funding.

The Town Board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of this section.

(14) No Effect on Just Compensation for Taking by Eminent Domain.

Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State, nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

(Am. Ord. GP#2008248, passed 1/12/09)

§ 150.09 through 150.24

Reserved.

STREET NAMES AND BUILDING NUMBERS

§ 150.25 NAMING NEW STREETS.

(A) Street names shall be assigned to new streets by the developer of the street, subject to the approval of the permit issuing authority.

(B) No new street shall be given a name that duplicates the name of an existing street within Moore County or the corporate limits of any municipality located in Moore County. No new street shall be phonetically similar to an existing street name located within Moore County or the corporate limits of any municipality located in Moore County, regardless of the use of different suffixes such as those set forth in subsection 150.25(C).

(C) Street names shall include a suffix such as the following:

(1) Circle: A short street that returns to itself;

(2) Court or Place: A cul-de-sac or dead-end street;

(3) Loop: A street that begins at the intersection with one street and circles back to end at another intersection with the same street; and

(4) Street: All public streets not designated by another suffix.

The developer may also use other suffixes as the developer deems appropriate.

(D) Developers seeking to create new streets shall pay the Town for the actual cost of purchasing and installing signs that meet the standards of the North Carolina Department of Transportation.

(E) Whenever any new street is located partially in an unincorporated part of Moore County (including the area within the extraterritorial jurisdiction of the Town) and partially within the Town limits, the new street name must be approved by both the Moore County Board of Commissioners and the Town Board of Commissioners. The names of new streets located entirely within unincorporated parts of Moore County shall be approved solely by the Moore County Board of Commissioners.

§ 150.26 RENAMING EXISTING STREETS.

(A) Persons desiring to have the name of an existing street changed must petition the Town Board of Commissioners. Said petition shall be submitted to the Town Planning Department. The Town Board of Commissioners, on its own initiative, may also change the name of an existing street. Name changes initiated by the Town Board need not comply with the petition requirements of subsection 150.26(B).

(B) The petition shall include the following:

- (1) A twenty-five dollar (\$25.00) fee,
- (2) The existing street name,
- (3) The proposed street name, and
- (4) A statement signed by 100% of the owners of property adjacent to the street that indicates the owners consent to the proposed name change.

(C) A proposed new name for an existing street shall meet the requirements of subsection 150.25(B).

(D) In the event that the Town Board approves the petition, the petitioners shall reimburse the Town for the cost of purchasing and installing new street signs.

§ 150.27 ADDRESSING.

(A) All residential, commercial and industrial structures, and, where applicable, accessory buildings thereto shall have a street number assigned by the Town Planning Department.

(B) A numbering system assigning addresses every ten feet (10') along roadways shall be used.

(C) All residential, commercial, industrial and accessory structures assigned addresses shall prominently display and maintain the assigned number on the structure on the side nearest the street and at the point where the driveway meets the street. The driveway address display shall either be on a mailbox or a post. The numbers on the driveway display shall be no less than three inches (3") in height and have a night reflective surface.

(D) The Planning Director shall have right to authorize and approve alternate methods of displaying address numbers so long as

- (1) The alternate method reasonably meets the intent of this section, and
- (2) Strict adherence to these standards cannot be reasonably met.

(E) The Planning Director, in his or her discretion, may change an existing address for just cause. Examples of just cause include the following:

- (1) An area where no addresses were left for vacant lot(s),
- (2) An address must be changed in response to a street name changed approved by the Town Board,

- (3) A person unknowingly displays the wrong address, and
- (4) The street address number series presently in use is incorrect and/or is non-sequential.

§ 150.28 ENFORCEMENT.

(A) The provisions of this section shall be supplemental and in addition to the enforcement provisions provided for in Code of Ordinances Sec. 10.98.

(B) No Certificate of Occupancy shall be issued until an official address has been assigned for a residential, commercial, or industrial structure, or, where applicable, accessory buildings thereto and the number has been properly displayed.

(B) It shall be unlawful for any person, firm, corporation, or other entity to remove, destroy or deface any street name sign. Further, it shall be unlawful for any person, firm, corporation, or other entity to erect a street name sign contrary to the provisions of this ordinance and/or without the appropriate approval as provided by this ordinance.

(Am. Ord. GP#2008248, passed 1/12/09)

LAND USAGE

FLOODPLAIN REGULATIONS

GENERAL PROVISIONS

§ STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has, G.S. Chapter 143, Article 21, Part 6; Chapter 160A, Article 8; and Chapter 160A, Article 19, Parts 3, 5 and 8, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Board of Commissioners of the town hereby ordains Chapter 151.

(Ord., passed 6-10-91)

§ 151.02 FINDINGS OF FACT.

(A) The flood hazard areas of the town 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.

(B) 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 hazard areas by uses vulnerable to floods and hazardous to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damage.
(Ord., passed 6-10-91)

§ 151.03 PURPOSE.

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

(A) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
(Ord., passed 6-10-91)

§ **151.04 OBJECTIVES.**

The objectives of this chapter are:

- (A) To protect human life and health;
 - (B) To minimize the expenditure of public money for costly flood control projects;
 - (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (D) To minimize prolonged business interruptions;
 - (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines and streets and bridges located in floodplains;
 - (F) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
 - (G) To insure that potential home buyers are notified that property is in a flood area.
- (Ord., passed 6-10-91)

§ **151.05 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPEAL. A request from a review of the local administrator's interpretation of any provision of this chapter.

ADDITION (TO AN EXISTING BUILDING). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

AREA OF SHALLOW FLOODING. A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. That lowest level or story which has its floor sub grade on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten or more than 20 pounds per square foot. A wall with a loading resistance of more than 20 pounds per square foot requires a professional engineer or architect's certificate.

BUILDING. Any structure built for support, shelter or enclosure for any occupancy or storage.

DEVELOPMENT. 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.

ELEVATED BUILDING. A non-basement building: built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C or X to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE or V to have the bottom of the lowest horizontal structural member of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water; and adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C and X, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30,

VE or V, **ELEVATED BUILDING** also includes a building otherwise meeting the definition of **ELEVATED BUILDINGS**, even though the area below is enclosed by means of breakaway walls if the breakaway walls meet the standards of § 151.31(E).

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) is completed before the effective date of this chapter.

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).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation of runoff of surface water, from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOR. The top surface of any enclosed area in a building (including basement), i.e., top of slab in concrete slab construction. The term does not include the floor of a garage used solely for parking vehicles.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as the

docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is: listed individually in the National Register of Historic Places (a listing maintained by the U.S. 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 the 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 state inventory of historic places; or is individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior, or directly by the Secretary of Interior in states without approved programs.

LEVEE. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LOWEST FLOOR. 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 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 chapter.

MANUFACTURED HOME. 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. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

NATIONAL GEODETIC VERTICAL DATUM (NGVD). As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Structures for which the "start of construction" is commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK or 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 slabs) is completed on or after the effective date of this chapter.

NONCONFORMING BUILDING or USE. Any legally existing building or use which fails to comply with the provisions of this chapter.

RECREATIONAL VEHICLE. A vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impact of its noncompliance. Ways that such impact may be reduced include protecting the structure or other affected development from flood damages implementing the enforcement provisions of this chapter or otherwise deterring future similar violations or reducing federal financial exposure with regard to the structure or other development.

START OF CONSTRUCTION. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act – P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, 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. For floodplain management purposes, a walled and roofed building, a manufactured home, including a gas or liquid storage tank or other man-made facilities that are principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. (See definition of **SUBSTANTIAL IMPROVEMENT**.)

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% 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: any project of improvement of a structure to correct existing violation of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living condition; or any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK or SUBDIVISION. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

VARIANCE. A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. 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 § 151.20 through 151.34 is presumed to be in violation until such time as that documentation is provided. (Ord., passed 6-10-91)

§ 151.06 AREAS TO WHICH REGULATIONS APPLY.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the town.
(Ord., passed 6-10-91)

§ **151.07 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD
HAZARD; MAPS ON FILE WITH CLERK**

(A) The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map #370165, date December 15, 1989, with accompanying maps and other supporting data, and any revision thereto is adopted by reference and declared to be a part of this chapter.

(B) Maps showing the area eligible for flood insurance benefits are on file in the Clerk's office.
(Ord., passed 6-10-91)

§ 151.08 COMPLIANCE REQUIRED.

No structure or land shall hereafter be located or extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.
(Ord., passed 6-10-91)

§ 151.09 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the most stringent restrictions shall prevail.
(Ord., passed 6-10-91)

§ 151.10 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord., passed 6-10-91)

§ 151.11 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazard or uses permitted within such area will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administration decision lawfully made hereunder. (Ord., passed 6-10-91)

§ 151.12 VIOLATIONS.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor and be subject to the penalty provisions of § 151.99.

(Ord., passed 6-10-91) Penalty, see § 151.99

ADMINISTRATION

§ 151.20 ESTABLISHMENT OF DEVELOPMENT PERMIT; WHEN REQUIRED; CERTIFICATION REQUIREMENTS.

(A) A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

(B) Application for a development permit shall be made to the Local Administrator on forms furnished by him prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas and drainage facilities. Specifically, the following information is required:

(1) Where the base flood elevation data is provided in accordance with § 151.21(J), the application for a development permit within the Zone A on the Flood Insurance Rate Map shall show:

(a) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures; and

(b) If the structure has been floodproofed in accordance with § 151.31(B) the elevation (in relation to mean sea level) to which the structure was floodproofed.

(2) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least two feet above the highest adjacent grade.

(3) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation; 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 showing the location of the proposed watercourse alteration or relocation.

(C) When a structure is floodproofed the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in § 151.31(B)

(D) A floor elevation or floodproofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Local Administrator a certification of the elevation of the lowest floor or floodproofed elevation, whichever is applicable, as built in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land

surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21 day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Local Administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop work order for the project. (Ord., passed 6-10-91) Penalty, see § 151.99

§ 151.21 LOCAL ADMINISTRATOR DESIGNATED; DUTIES.

The Town Zoning/Building/Inspections Department is hereby appointed to administer and implement the provisions of this chapter. Duties of the Local Administrator shall include, but not be limited to the following:

(A) Review all development permits to assure that the requirements of this chapter have been satisfied;

(B) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit;

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished;

(E) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of § 151.30 – 151.34 are met;

(F) Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in accordance with § 151.20(D);

(G) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with § 151.20(D);

(H) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with § 151.31(B);

(I) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (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 § 151.20 – 151.23.

(J) When base flood elevation data or floodway data has not been provided in accordance with § 151.07, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, including data developed pursuant to § 151.33(D), in order to administer the provisions of this chapter.

(K) Make on-site inspections of projects in accordance with § 151.22;

(L) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with § 151.22;

(M) Maintain all records pertaining to the administration of this chapter and make these records available for public inspection; and

(N) Annexation. Provide the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries.

(Ord., passed 6-10-91)

§ **151.22 ADMINISTRATIVE PROCEDURES.**

(A) Inspections of work in progress. As the work pursuant to a permit progresses, the Local 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 this chapter and the terms of the permit. In exercising this power, the Administrator has a right, upon presentation of proper credentials to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(B) Stop-work orders. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(C) Revocation of permits. The local administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or 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 permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(D) Periodic inspections. The Local Administrator and each member of his 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.

(E) Violations to be corrected. When the Local Administrator finds violations of applicable state and local laws, it shall be his 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 in the property he owns.

(F) 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 Administrator shall give him written notice, by certified or registered mail to his last known address or by personal service that:

(1) The building or property is in violation of this chapter;

(2) A hearing will be held before the Local Administrator at a designated place and time, not later than ten 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

(3) Following the hearing, the Local Administrator may issue such order to alter, vacate or demolish the building or to remove fill as appears appropriate.

(G) Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the building or development is in violation of this chapter, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, than that the Administrator may prescribe; provided that where the Administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(H) Appeal. Any owner who has received an order to take corrective action may appeal from the order to the Board of Commissioners by giving notice of appeal in writing to the Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The Board of Commissioners shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.

(I) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Commissioners following an appeal, he shall be guilty of a misdemeanor and shall be punished in discretion of the court.

(Ord., passed 6-10-91) Penalty, § 151.99

§ 151.23 VARIANCE PROCEDURES.

(A) The Zoning Board of Adjustment as established by the town shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for 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 the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter; and

(1) The danger that materials may be swept onto other land to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where a waterfront location, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

(E) Upon consideration of the factors listed above and the purpose of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(F) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(G) Conditions for variances:

(1) Variances may not be issued when the variance will put the structure in violation of other federal, state or local laws, regulations or ordinances.

(2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship and determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing or local laws or ordinances.

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notifications shall be maintained with a record of all variance actions.

(5) The Local Administrator shall maintain the records of all appeal action and report any variance to the Federal Emergency Management Agency upon request.
(Ord., passed 6-10-91)

FLOOD HAZARD REDUCTION PROVISIONS

§ 151.30 GENERAL STANDARDS.

(A) In all areas of special flood hazard, the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters 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; and

(8) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(B) Nonconforming building or uses. Nonconforming buildings or uses may not be enlarged, replaced or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. However, nothing in this chapter shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the Floodway Zone, provided the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that such repair, reconstruction or replacement meets all of the other requirements of this chapter.

(Ord., passed 6-10-91) Penalty, § 151.99

§ 151.31 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 151.07 or 151.21(J), the following provisions are required:

(A) Residential construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwater shall be provided.

(B) Nonresidential construction. New construction or substantial improvement of any commercial, industrial or nonresidential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than three feet above the level of the base flood elevation. Structures located in A Zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required 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. A registered professional engineer or architect shall certify that the standards of this division (B) shall be provided to the official as set forth in § 151.20(D).

(C) Manufactured homes.

(1) Manufactured homes that are placed or substantially improved on sites: outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damages as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than three feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of division (C)(1) above must be elevated so that the lowest floor of the manufactured home is elevated no more than three feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement.

(3) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to G.S. § 143-15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone areas. This plan shall be filed with and approved by the Local Administrator and the local Emergency Management Coordinator.

(D) Recreational vehicles. A recreational vehicle is ready for highway use if it is on wheels or packing system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached conditions. Recreation vehicles placed on sites shall either:

- (1) Be on site for fewer than 180 consecutive days;
- (2) Be fully licensed and ready for highway use; or
- (3) Meet the requirements of § 151.20, 151.30 and 151.31(C).

(E) Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater.

(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above grade; and

(c) Openings may be required with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage doors) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(F) Temporary structures. Prior to the issuance of a development permit for a temporary structure, the following requirements must be met:

(1) All applicants must submit to the Local Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:

(a) The name, address and phone number of the individual responsible for the removal of the temporary structure;

(b) The time frame prior to the event at which a structure will be removed;

(c) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and

(d) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(2) The above information shall be submitted in writing to the Local Administrator for review and written approval.

(G) Accessory structure. When accessory structures (shed, detached garages, etc.) with a value of \$3,000 or less are to be placed in the floodplain the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation;

(2) Accessory structures shall be designed to have low flood damage potential;

(3) Accessory structures shall be firmly anchored in accordance with § 151.30(A)(1); and

(4) Service facilities such as electrical and heating equipment shall be elevated in accordance with § 151.30(A)(4).

(H) Floodways. Located within areas of special flood hazard established in § 151.07 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such area:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Local Administrator.

(2) If §151.31(F)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§151.30-151.34.

(3) 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 the elevation standard of §151.31(C) are met.
(Ord., passed 6-10-91) Penalty, §155.99

**§ 151.32 STANDARD FOR STREAMS WITHOUT ESTABLISHED BASE
FLOOD ELEVATIONS AND/OR FLOODWAYS.**

Located within the areas of special flood hazard established in §151.07 are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to five times the width of the stream at the top of the bank or 20 feet each side from top of bank, 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.

(B) If division (A) above is satisfied and base flood elevation data is available from other sources all new construction and substantial improvements within such area shall comply with all applicable flood hazard ordinance provisions of §§151.30-151.34 and shall be elevated or floodproofed in accordance with elevations established in accordance with §151.21(J). When base flood elevation data is not available from a federal, state or other source, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.
(Ord., passed 6-10-91) Penalty, §155.99

§ 151.33 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.
(Ord., passed 6-10-91) Penalty, §155.99

§ 151.43 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Located within the areas of special flood hazard established in §151.07 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions shall apply within such areas:

(A) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(B) All new construction and substantial improvements of nonresidential structures shall:

(1) Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or

(2) Be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is 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.

(Ord., passed 6-10-91) Penalty, §155.99

§ 151.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord., passed 6-10-91)

LAND USAGE

HISTORIC PRESERVATION

HISTORIC PRESERVATION COMMISSION

There is hereby established an Aberdeen Historic Preservation Commission ("Commission") under the authority of Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes.

The Commission shall consist of five members appointed by the Board of Commissioners. All members shall reside within the planning and zoning jurisdiction of the Town of Aberdeen. At the time of initial appointments to the commission, at least three members must reside within the area identified as the boundaries of the Aberdeen National Register Historic District and one must reside in the Aberdeen extraterritorial jurisdiction. After the initial appointments, subsequent appointments should be such that at least three members reside in the Aberdeen Historic District and one resides in the extraterritorial jurisdiction. The Town Board of Commissioners shall use its best efforts to appoint qualified members to the commission. However, if it is not able to get qualified members to serve who reside in the Historic District, it may appoint others who reside within the planning and zoning jurisdiction of the Town of Aberdeen. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The Commission may appoint advisory bodies and committees as appropriate.

Members of the Commission shall serve terms of four years. Terms shall be staggered. A member may be reappointed for a second consecutive term, but after two consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of the termination of his or her second term.

The powers of the Historic Preservation Commission are as follows:

- (A) Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance;
- (B) Recommend to the Board of Commissioners areas to be designated by ordinance as "historic districts" and individual structures, buildings, sites, areas or objects to be designated by ordinance as "Landmarks";
- (C) Recommend to the Board of Commissioners that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause;
- (D) Review and act upon proposal for alterations, demolition or new construction within historic districts, or for the alteration or demolition of designated landmarks;
- (E) Conduct an educational program with respect to historic districts and landmarks within its jurisdiction;
- (F) Cooperate with the state, federal and local government in pursuance of the purposes of this ordinance; to offer or request assistance, aid, guidance or advice concerning

matters under its purview or of mutual interest. The Board of Commissioners, or the Commission when authorized by the Board of Commissioners, may contract with the State or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;

(G) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof;

(H) Prepare and recommend the official adoption of a preservation element as part of the Town of Aberdeen comprehensive plan;

(I) Make recommendations to the Town Board of Commissioners that the Town acquire by any lawful means fee simple or any lesser interest, including options to purchase properties within established districts or any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

(J) With the permission of the Board of Commissioners, restore, preserve and operate historic properties; and

(K) With the permission of the Board of Commissioners, negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonably necessary or appropriate.

Prior to any official action the Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the appointment of members, terms of office, the election of officers and related matters. A public record shall be kept of the Commission's resolutions, proceedings and actions. The Commission shall also prepare and adopt principles and guidelines for altering, restoring, moving or demolishing properties designated as landmarks or within historic districts.

§ 152.01 HISTORIC DISTRICTS.

Historic districts are hereby established as districts, which overlap with other zoning districts. All uses permitted in any such district, whether by right or as a special use, shall be permitted in the historic district.

Historic districts, as provided for in this section, may from time to time be designated, amended or repealed, provided however that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural or cultural importance. Such district must also possess integrity of design, setting, workmanship, materials, feeling and/or association. No district shall be designated, amended or repealed until the following procedures have been carried out:

(A) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared; and

(B) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the Town of Aberdeen Board of Commissioners within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Board of Commissioners of any responsibility for awaiting such analysis, and the Board of Commissioners may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

The Board of Commissioners may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the zoning ordinance.

With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the Town's jurisdiction, the investigative studies and reports required by subdivision (A) of the following section shall be prepared by the Commission and shall be referred to the Planning Board for its review and comment according to the procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural Resources in accordance with the provisions of subdivision (B) of the following section.

Upon receipt of these reports and recommendations, the Board of Commissioners may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

§ 152.02 HISTORIC LANDMARKS.

Upon complying with the required landmark designation procedures set forth herein, the Board of Commissioners may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.

No property shall be designated as a landmark until the following steps have been taken:

(A) As a guide for the identification and evaluation of landmarks, the Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical, architectural, prehistorical and cultural significance within the Town of Aberdeen and its extraterritorial jurisdiction;

(B) The Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources;

(C) The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his or her designee, shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the Department does not submit its comments to the Commission within 30 days following receipt by the Department of the report, the Commission and the Board of Commissioners shall be relieved of any responsibility to consider such comments;

(D) The Commission and the Board of Commissioners shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given;

(E) Following the public hearing(s) the Board of Commissioners may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary or reject the proposed ordinance;

(F) Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the Commission in the office of the Register of Deeds of Moore County. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Town of Aberdeen Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by Moore County for such period as the designation remains in effect; and

(G) Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Commission to give notice thereof to the tax supervisor of Moore County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

§ 152.03 CERTIFICATE OF APPROPRIATENESS REQUIRED.

From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features), nor any above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within the historic district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Commission. Such a certificate is required to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this ordinance. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this ordinance, “exterior features” shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. Exterior features may also include historic signs, color, and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, “exterior features” shall be construed to mean the style, material, size and location of all such signs.

The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Aberdeen and all public utilities shall be required to obtain a certificate of appropriateness for construction, alteration, moving or demolition within the historic district or on designated landmarks.

§ 152.04 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

Applications for a certificate of appropriateness shall be obtained from and when completed, filed with the administrator. The application shall be filed not less than 21 calendar days prior to the next regularly scheduled meeting of the Commission. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction. The names and mailing addresses of property owners filing and/or subject to the application and the addresses of property within 100 feet on all sides of the property which is the subject of the application must also be filed. No application which does not include the aforementioned information will be accepted.

It shall be the policy of the Commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that a sub-committee of the Commission shall be available to meet with persons involved in planned or pending applications in order to advise them informally at an early stage in the development process concerning the Commission's guidelines, the nature of the area where the proposed project will take place and other relevant factors. The members of the sub-committee, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any member of the sub-committee at such an informal meeting shall not be considered official or binding upon the Commission.

§ 152.05 ACTION ON APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

The secretary of the Commission shall, by a mailing that is sent not less than seven days prior to the meeting at which the matter is to be heard, notification to the owners of property within 100 feet on all sides of the subject property. Applications for certificates of appropriateness shall be acted upon within 90 days after filing, otherwise the application shall be deemed to be approved and certificate shall be issued. An extension of time may be granted by mutual consent of the Commission and the applicant. As part of the review procedures the Commission may view the premises and seek the advice of the Department of Cultural Resources or other such expert advice as it may deem necessary under the circumstances. The Commission may hold a public hearing on any application when deemed necessary. The action on an application shall be approval, approval with conditions or denial and the decision of the Commission must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the historic district or landmark. Once issued, a certificate of appropriateness is valid for one year. If after commencement of work authorized by the certificate the work is not completed within the one year the certificate shall expire.

§ 152.06 HEARINGS FOR CERTIFICATE OF APPROPRIATENESS.

Prior to the issuance or denial of a certificate of appropriateness, the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. All meetings of the Commission shall be open to the public in accordance with the North Carolina Open Meetings Law, G.S. 143, Article 33C.

The Commission shall have no jurisdiction over interior arrangement, except as provided below, and shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features which would be incongruous with the special character of the historic district or landmark.

The jurisdiction of the Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned landmarks for which consent for interior review has been given by the owners. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the Register of Deeds office and indexed according to the name of the owner of the property in the grantor and grantee indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

In any action granting or denying a certificate of appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment.

Written notice of the intent to appeal must be sent to the Commission, postmarked within 30 days following the decision. Appeals shall be in the nature of certiorari. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Moore County.

The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision within 30 days from the date that a notice of appeal by the state is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the State and the Commission.

§ 152.07 ADMINISTRATIVE APPROVAL OF MINOR WORKS.

Notwithstanding the subsection above (Action on Certificates of Appropriateness), upon receipt of a completed application the Zoning Administrator may issue a certificate of appropriateness for minor works that are consistent with the provisions of Section 152.08 and the Design Principles and Guidelines adopted by the Commission. If the Zoning Administrator determines that an applicant seeks a certificate of appropriateness for a minor work as defined herein, he may waive the requirement that the application be submitted 21 days prior to the next Commission meeting and the requirement that the application contain the names and addresses of nearby property owners.

Minor works are defined as those exterior changes that do not involve a change to the visual character of the property but do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or district as a whole. The Zoning Administrator shall make the determination as to whether the application involves a minor work as defined herein.

The Zoning Administrator may approve but may not deny an application for a certificate of appropriateness for minor works. If the Zoning Administrator decides not to issue a certificate of appropriateness for a minor work, the application shall be referred to the Commission for action.

A decision by the Zoning Administrator to issue a certificate of appropriateness for minor works may be appealed to the Board of Adjustment in the same manner as other decisions by the Zoning Administrator

§ 152.08 REVIEW CRITERIA.

No certificate of appropriateness shall be granted unless the Commission finds that the application complies with the principles and guidelines adopted by the Commission for review of changes. It is the intent of these regulations to insure insofar as possible that construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or other significant features in the district or of landmarks shall be congruous with the special character of the district or landmark. Notwithstanding the foregoing, the Commission may apply the above-mentioned principles and guidelines in a manner that is consistent with their spirit, rather than literally, when it concludes that the benefit derived from strict adherence to the principles and guidelines is outweighed by the practical or financial hardships imposed on an applicant by such literal application on non-contributing structures.

In addition to the principles and guidelines, the following features or elements of design shall be considered in reviewing applications for certificates of appropriateness:

- (A) Lot coverage, defined as the percentage of the lot area covered by primary structures;
- (B) Setback, defined as the distance from the lot lines to the building;
- (C) Building height.
- (D) Spacing of buildings, defined as the distance between adjacent buildings;
- (E) Proportion, shape, positioning, location, pattern, sizes and style of all elements of fenestration and entry doors;
- (F) Surface materials and textures;
- (G) Roof shapes, forms and materials;
- (H) Use of regional or local architectural traditions;
- (I) General form and proportion of buildings and structures and the relationship of additions to the main structure;
- (J) Expression of architectural traditions;
- (K) Orientation of the building to the street;
- (L) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures, maintenance of pedestrian scale;

- (M) Proportion of width to height of the total building façade;
- (N) Archaeological sites and resources associated with standing structures;
- (O) Effect of trees and other landscape elements;
- (P) Major landscaping which would impact known archaeological sites;
- (Q) Style, material, size and location of all outdoor advertising signs;
- (R) Appurtenant features and fixtures, such as lighting;
- (S) Structural condition and soundness;
- (T) Walls – physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses;
- (U) Ground cover or paving; and
- (V) Significant landscape, archaeological and natural features.

The Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be the sole principles of and guidelines used in reviewing applications of the State of North Carolina for certificates of appropriateness.

§ 152.09 CERTAIN CHANGES NOT PROHIBITED.

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, materials or outer appearance thereof; the ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs or traffic signs; the construction, reconstruction, alteration, restoration or demolition of any such feature which the Building Inspector shall certify is required for the public safety because of an unsafe or dangerous condition. None of the foregoing work shall require a certificate of appropriateness. Nothing herein shall be construed to prevent (a) the maintenance or (b) in the event of an emergency, the immediate restoration of the existing above-ground utility structure without approval by the Commission.

§ 152.10 ENFORCEMENT AND REMEDIES.

Compliance with the terms of the certificate of appropriateness shall be enforced by the Zoning Administrator. Failure to comply with the certificate shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations.

In case any building, structure, site, area or object designated as a landmark or within a historic district is about to be demolished, whether as a result of deliberate neglect or otherwise materially altered, remodeled, removed or destroyed except in compliance with this ordinance, the Board of Commissioners, the Commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal to restrain, correct or abate such violation or to prevent any illegal act or conduct with respect to such a building or structure.

**§ 152.11 DELAY IN DEMOLITION OF LANDMARKS AND BUILDINGS
WITHIN HISTORIC DISTRICTS.**

(A) An application for a certificate of appropriateness authorizing the demolition, removal or destruction of a designated landmark or a building, structure or site within a historic district may not be denied except as provided in subsection (C) below. However, the effective date of such a certificate may be delayed for up to 365 days from the date of approval. The period of delay shall be reduced by the Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site. If the Commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

If the Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district and final designation has not been made by the Board of Commissioners, the demolition or destruction of any building, structure or site in the proposed district or on the property of the designated landmark may be delayed by the Commission for up to 180 days or until the Board of Commissions takes final action on the designation, whichever occurs first.

(B) The Board of Commissioners may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within the established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.

(C) An application for a certificate of appropriateness authorizing the demolition of a building, structure or site determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

LAND USAGE

MINIMUM HOUSING STANDARDS

GENERAL PROVISIONS

§ 153.01 FINDING; PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is hereby declared that there exist within the jurisdiction of the town dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents within the jurisdiction of the town as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.

§ **153.02 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASEMENT. A portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

BUILDING INSPECTOR. The Building Inspector of the town or any Building Inspector for whose services the town has contracted or any authorized agent of the Inspector.

CELLAR. A portion of a dwelling which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DILAPIDATED. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter except at a cost in excess of 50% of its value, as determined by finding of the Inspector.

DWELLING. Any building, structure, manufactured home or mobile home or part thereof, used and occupied for human habitation or intended to be so used, and including any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured or mobile home as defined in G.S. 143-147(7), which is used solely for a seasonal vacation purpose. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION. The control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the Inspector.

GARBAGE. The organic waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

NOXIOUS GROWTH. Any growth of weeds, grasses, or other plants or bushes that become or threaten to become a fire hazard or a harboring place for rats, mice, snakes, or other vermin or otherwise pose a danger to the public health or safety. Uncontrolled plant growth (i.e. plants not intentionally planted in a garden, shrub bed, flower bed or similar area) that is at least eight (8) inches tall and remains so for a period of twenty-one (21) days shall also constitute noxious growth.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who alone, jointly or severally with others:

(A) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or

(B) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or

(C) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PARTY OR PARTIES IN INTEREST. All persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

PERSON. Any individual, corporation, firm partnership, association, organization or other legal entity.

PLUMBING. All of the following supplied facilities and equipment: gas pipe, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the government of the town or of the county or the state relating to health, fire, building regulations or other activities concerning dwellings in the town.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let be the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father or brother of the owner operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Non-organic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

SUPPLIED. Paid for, furnished or provided by, or under the control of, the owner or operator.

UNFIT FOR HUMAN HABITATION. That conditions exist in a dwelling, dwelling unit, rooming house or room unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.

WASTES. All useless, unwanted, or discarded materials and products, resulting from domestic, industrial, commercial or community activities.

YARD WASTES. Organic materials commonly consisting of leaves, pine straw, wheat straw, grass clippings, hedge clippings, dirt, rocks, yard and garden waste, branches, logs, twigs, and all vegetable matter resulting from landscaping or land clearing activities (i.e. stumps, trees, etc.)

Whenever the words ***DWELLING, DWELLING UNIT, ROOMING HOUSE, ROOMING UNIT, PREMISES*** are used in this chapter, they shall be construed as though they were followed by the words ***OR ANY PART THEREOF.***

(Am. Ord., passed 9-10-07)

§ 153.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep it in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(C) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) Care of facilities, equipment and structure. No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

Penalty, see § 10.99

MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNIT

§ 153.15 COMPLIANCE REQUIRED.

(A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

(B) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

Penalty, see § 10.99

§ 153.16 STRUCTURAL CONDITIONS.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

(A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors or wood floors on the ground.
Penalty, see § 10.99

§ **153.17 BASIC EQUIPMENT AND FACILITIES.**

(A) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the most current edition of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

(1) Central and electrical heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70° measured at a point three feet above the floor during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, fires, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70° measured three feet above the floor during ordinary winter conditions.

(C) Electrical system.

(1) Every dwelling and dwelling unit shall be wired for electrical lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the most current edition of the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the most current edition of the State Electrical Code.

Penalty, see § 10.99

§ 153.18 VENTILATION.

(A) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) Bathrooms and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Penalty, see § 10.99

§ **153.19 SPACE, USE AND LOCATION.**

(A) Room sizes.

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the most current edition of the State Residential Building Code.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants and at least 75 square feet of additional habitable floor area for each additional occupant.

(3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) Ceiling height. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(D) Cellar. No cellar shall be used for living purposes.

(E) Basements. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms; and

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

Penalty, see § 10.99

§ 153.20 SAFE AND SANITARY MAINTENANCE.

(A) Exterior foundation, walls and roofs. Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof, shall be kept in sound condition and good repair; shall be capable of affording privacy and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) Interior floors, walls and ceilings. Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(C) Windows and doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(D) Stairs, porches and appurtenances. Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(E) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(F) Supplied facilities. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working conditions.

(G) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(H) Noxious growth. Every yard and all exterior property areas shall be kept free of noxious growth.

(I) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.
Penalty, see § 10.99 (Am. Ord., passed 9-10-07)

§ 153.21 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) Screens. In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

(B) Rodent control. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(C) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure to the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an approved outside garbage can as required by town ordinances.
Penalty, see § 10.99

(F) Waste Disposal. Except as provided in subsection (G), no owner or occupant may cause, suffer, or permit wastes, including rubbish and garbage, to accumulate on the premises, including yards and exterior property areas, provided that occupants shall be liable under this section only for those parts of the premises under their control.

(G) Yard Wastes. Yard waste may be allowed to accumulate or remain in yards and exterior property areas for uses such as landscaping and composting, provided that these materials do not become or threaten to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise pose a danger to the public health and safety. This provision does not authorize the commercial storage of landscaping materials on a residential property; commercial storage is permitted only in accordance with the Aberdeen Zoning Ordinance.
(Am. Ord., passed 9-10-07)

MINIMUM STANDARDS FOR ROOMING HOUSES

§ 153.35 APPLICATION OF REGULATIONS.

All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses and to every person who operates a rooming house or who occupies or lets to another for occupancy and any rooming unit in any rooming house, except as provided in the following section of this subchapter.

§ 153.36 WATER CLOSET, HAND LAVATORY AND BATH FACILITIES.

At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

Penalty, see § 10.99

§ 153.37 MINIMUM FLOOR AREA.

Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

Penalty, see § 10.99

§ 153.38 SANITARY CONDITIONS AND FACILITIES.

(A) Sanitary conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for the sanitary maintenance of every other part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(B) Sanitary facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by § 152.36 shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall and are accessible without going outside the rooming house or through any other room therein.

Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 153.50 POWERS AND DUTIES OF BUILDING INSPECTOR.

The Building Inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Building Inspector is authorized to exercise such powers as may be necessary to convenient to carry out and effectuate the purpose and provisions of this chapter. The Building Inspector shall have the following powers and duties:

(A) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town and in the two-mile extraterritorial jurisdiction of the town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing or demolition of such dwellings and dwelling units;

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(C) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

(D) To administer oaths and affirmations, examine witnesses and receive evidence;

(E) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with § 153.51 and state law and shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

(F) To perform such other duties as may be prescribed herein or by the Board of Commissioners.

§ 153.51 RIGHT OF ENTRY OF BUILDING INSPECTOR.

(A) For the purpose of making inspections, the Building Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit or the person in charge thereof shall give the Building Inspector free access to such dwelling and its premises at all reasonable times for the purposes of such inspection, examination and survey.

(B) Every occupant of a dwelling, dwelling unit, rooming house, or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

§ **153.52 ENFORCEMENT PROCEDURE.**

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Building Inspector by a public authority or by at least five residents of the town or its extraterritorial jurisdiction, charging that any dwelling, dwelling unit or the premises thereof is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling, dwelling unit or the premises thereof is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling, dwelling unit or the premises thereof a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or a party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling or premises thereof. Any person desiring to do so may attend such hearing and give evidence. Rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) Procedure after hearing.

(1) After such notice and hearing, the Inspector shall state in writing his determination as to whether the dwelling, dwelling unit or the premises thereof are unfit for human habitation and, if so, whether the dwelling or dwelling unit is deteriorated or dilapidated.

(2) If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made.

(3) If the Inspector determines that the dwelling is dilapidated he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) Failure to comply with order.

(1) In personam remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated

dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector may submit to the Board of Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) In rem remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the division (C) of this section, the Inspector shall submit to the Board of Commissioners an ordinance specifying the property and ordering the Inspector or authorized agent to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished as provided in the original order of the Inspector and, pending removal or demolition, to place a placard on such dwelling as provided by G.S. § 160A-443 and § 153.54 of this code.

(D) Appeals from orders of Inspector.

(1) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the Inspector and with the Zoning Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certified to the Board after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Inspector by the Board or by a court of record upon petition made pursuant to G.S. § 160-446(f) and division (E) of this section.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, or may modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

(3) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

- (E) Petition to superior court by owner. Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order of rendering of the decision, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(Am. Ord., passed 9-10-07)

§ 153.53 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Building Inspector shall be served upon persons either personally or by registered or certified mail. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such owners and persons may be made by publishing the same at least once, not later than the time at which personal service would be required under the provisions of this chapter, in a newspaper having general circulation in the town and its extraterritorial jurisdiction. Where service is made by publication, notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

§ 153.54 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Building Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. § 160A-443(5) and § 153.52(C) of this code, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter or to be vacated and closed and removed or demolished as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(B) Each ordinance so adopted shall be recorded in the office of the Register of Deeds of the count and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

Penalty, see § 10.99

§ 153.55 COSTS A LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the cost of any repairs, alterations or improvements, or of vacating and closing or removal or demolition caused to be made or done by the Inspector pursuant to § 153.54 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have priority and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10.

§ **153.56 ALTERNATIVE REMEDIES.**

- (A) In addition to the remedies provided in Code of Ordinances § 153.52, 153.54, and 153.55, the remedies provided in Code of Ordinances § 10.98 may also be used to enforce the provisions of this chapter.

- (B) Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. § 14-4, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Am. Ord., passed 9-10-07)

§ 153.57 ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.

All appeals which may be taken from decisions or orders of the Building Inspector pursuant to § 153.52(D) shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by § 153.52(D) and shall keep an accurate journal of all its proceedings.

§ 153.58 OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

§ 153.59 VIOLATIONS.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 153.52, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

Penalty, see § 10.99

LAND USAGE

SUBDIVISION REGULATIONS

GENERAL PROVISIONS

§ 154.01 TITLE.

 This chapter shall be known and may be cited as the Subdivision Regulations of the Town of Aberdeen, North Carolina, and may be referred to as the subdivision regulations.
(Ord., passed 2-1-89)

§ 154.02 PURPOSE.

The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial 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 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-way or easements 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 for public health, safety, and the general welfare. This chapter 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.
(Ord., passed 2-1-89)

§ 154.03 AUTHORITY.

This chapter is hereby adopted under the authority and provision of the G.S. Ch. 160A, Art. 19, Part 2.
(Ord., passed 2-1-89)

§ 154.04 JURISDICITON

The regulations contained herein, as provided in G.S. Ch. 160A, Art. 19 shall govern each and every subdivision within the town and its extraterritorial planning area.
(Ord., passed 2-1-89)

§ **154.05 DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BLOCK. A piece of land bounded on one or more sides by streets or roads.

BUILDING SETBACK LINE. A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

DEDICATION. A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument and is completed with an acceptance.

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.

HALF STREET. A street whose centerline coincides with a subdivision plat boundary, with ½ the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

LOT. A portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development or both. Includes the words **PLOT**, **PARCELL**, or **TRACT**.

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

LOT TYPES include the following:

(1) **CORNER LOTS.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

(2) **DOUBLE FRONTAGE LOT.** A continuous (through) lot which is accessible from both streets upon which it fronts.

(3) **INTERIOR LOTS.** A lot, other than a corner lot, with only one frontage on more than one street.

(4) **REVERSED FRONTAGE LOT.** A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

(5) ***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.

(6) ***THROUGH LOT OR A DOUBLE FRONTAGE 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.

OFFICIAL MAPS OR PLANS. Any maps or plans officially adopted by the Town Board of Commissioners.

OPEN SPACE. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

PERSON. Includes a firm, association, corporation, trust and company as well as an individual.

PLAT. A map or plan of a parcel of land which is to be, or has been, subdivided.

PUBLIC WATER SYSTEM. A system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

PUBLIC OR COMMUNITY SEWAGE SYSTEM. A single system of sewage collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

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.

PRIVATE STREET. An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. § 136-102.6.

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.

SEPTIC TANK SYSTEM. A ground absorption sewage treatment and disposal system consisting of a septic tank and a nitrification field, necessary pipe lines, conduits, pump stations and other appurtenances required for proper collection, distribution, treatment, disposal, operation and performance or any other system approved by the Health Department.

STREET. A dedicated and accepted public right-of-way for vehicular traffic (or a private road only if permitted by this chapter). The following classifications shall apply:

(1) **RURAL ROADS** include the following:

(a) **LOCAL ROAD/STREET.** A local road serves primarily to provide for travel over relatively short distances.

(b) **MAJOR COLLECTOR.** A road, which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

(c) **MINOR ARTERIAL.** A rural link in a network joining cities and larger towns and providing intrastate and intracounty service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

(d) **MINOR COLLECTOR.** A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

(e) **PRINCIPAL ARTERIAL.** A rural link in a network of continuous routes serving corridor movements, having trip length and travel density characteristics indicative of substantial statewide or interstate travel, and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

(2) **SPECIFIC TYPE RURAL OR URBAN STREETS** include the following:

(a) **ALLEY.** A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the backside of properties otherwise abutting on a street.

(b) **CUL-DE-SAC.** A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

(c) **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.

(d) **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.

(e) **LOCAL RESIDENTIAL STREET.** Cul-de-sacs, loop streets less than 2,500 feet in length, or streets less than one mile 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.

(f) **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.

STRUCTURE. Includes the word **BUILDING**.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and 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 any regulations enacted pursuant to this chapter.

(1) 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 this chapter;

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

(3) The public acquisition by purchase of strips of land for the widening or opening of streets; and

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

USE FOR. Includes the meaning **DESIGNED FOR**.
(Ord., passed 2-1-89)

§ 154.06 PREREQUISITE TO PLAT RECORDATION.

After the effective date of this chapter, each individual subdivision plat of land within the town's jurisdiction shall be approved by the Town Planning Board.
(Ord., passed 2-1-89)

§ 154.07 THOROUGHFARE PLANS.

When 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 plated by the subdivider in the location shown on the plan and at the width specified in this chapter.

(Ord., passed 2-1-89)

§ 154.08 SCHOOL SITES ON LAND USE PLAN.

If the Town Board of Commissioners and Board of Education have jointly determined the specific location and size of any school sites to be reserved and this information appears in the comprehensive land use plan, the Planning Board shall immediately notify the Board of Education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education 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 Planning Board. If the Board of Education has not purchased or begun proceeding to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.

§ 154.09 ZONING AND OTHER PLANS.

Similarly, proposed subdivisions must comply in all respects with the requirements of the zoning ordinance in effect in the area to be subdivided, and any other officially adopted plans.
(Ord., passed 2-1-89) Penalty, see § 154.99

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

§ 154.25 PLAT SHALL BE REQUIRED ON ANY SUBDIVISION OF LAND.

Pursuant to G.S. Ch. 160A, Art. 19, Part 2 a final plat shall be prepared, approved and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place.
(Ord., passed 2-1-89)

§ 154.26 APPROVAL PREREQUISITE TO PLAT RECORDATION.

Pursuant to G.S. § 160A-372, no final plat of a subdivision within the jurisdiction of the town as established in § 154.04 shall be recorded by the County Register of Deeds until it has been approved as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this subchapter.

(Ord., passed 2-1-89) Penalty, see § 154.999

§ 154.27 PROCEDURES FOR REVIEW OF MAJOR AND MINOR SUBDIVISION.

§ 154.27 PROCEDURES FOR REVIEW OF MAJOR, MINOR, AND PUBLIC INFRASTRUCTURE SUBDIVISIONS.

(A) All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in subsection (B) or as public infrastructure subdivisions in subsection (C). Major subdivisions shall be reviewed in accordance with the procedures in § 154.29 through § 154.31. Minor subdivisions shall be reviewed in accordance with the provisions in § 154.28. Public Infrastructure Subdivisions shall be reviewed in accordance with the procedures in § 154.28.1.

(B) Minor subdivisions.

(1) A minor subdivision is defined as one involving no new public or private streets or roads, or right-of-way dedication, no easements, no utility extension, 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.

(2) 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, or road right-of-way from the property to be subdivided, the subdivision shall not qualify as a minor subdivision. The minor subdivision process may not be used a second time within three years on any property less than 1500 feet from the original property boundaries by anyone who had an option on or any legal interest in the original subdivision at the time the plat received preliminary or final plat approval. Furthermore, the minor subdivision process may not be used within three years on any property less than 1,500 feet from the original property boundaries by any subsequent owner, individual having an adoption on or individual having any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval.

(C) Public infrastructure subdivisions. A public infrastructure subdivision is defined as one involving the acquisition of land by the Town or other government entity for public infrastructure purposes, including, but not limited to, well, pump station and lift station lots. A public infrastructure subdivision shall not include the creation of new public or private streets or roads.

(Ord., passed 2-1-89; Am. By Ord. #GP07-08 passed 11-13-07)

§ **154.28 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS.**

(A) Sketch plan for minor subdivision.

(1) Prior to submission of a final plat, the subdivider shall submit to the Subdivision Administrator two copies of a sketch plan of the proposed subdivision containing the following information:

(a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, road and waterways;

(b) The boundaries of the tract and the portion of the tract to be subdivided;

(c) The total acreage to be subdivided;

(d) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

(e) The existing street layout and right-of-way width, lot layout, and size of lots;

(f) The name, address, and telephone number of the owner;

(g) The name, if any, of the proposed subdivision;

(h) Streets and lots of adjacent developed or platted properties;

(i) The zoning classification of the tract and of adjacent properties; and

(j) A statement from the County Health Department that a copy of the sketch plan has been submitted to them if a septic tank system or other onsite water or wastewater systems are to be used in the subdivision.

(2) The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this chapter and the zoning ordinance; the Subdivision Administrator shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat.

(3) One copy of the sketch plan shall be retained by the Subdivision Administrator and one copy shall be returned to the subdivider or his authorized agent.

(B) Final plat for minor subdivisions. Upon approval of the sketch plan by the Subdivision Administrator, the subdivider may proceed with the preparation of the final plat in accordance with the requirements of this chapter.

(1) The subdivider shall submit the final, so marked, to the Subdivision Administrator for review.

(2) The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the state by the 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 G.S. § 47-30 and the Manual of Practice for Land Surveying in North Carolina.

(3) Five copies of the final plat shall be submitted; two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

(4) The final plat shall be of a size suitable for recording with the County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(5) Submission of the final plat shall be accompanied by a filing fee of \$25 and acreage fees (when applicable) as required in § 154.31(c).

(6) The final plat shall meet the specifications in § 154.32.

(7) The following signed certificates shall appear on all five copies of the final plat.

(a) Certificate of ownership and dedication.

“I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Aberdeen and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

_____”
Date Owner

(b) Certificate of survey and accuracy.

“In accordance with the Manual of Practice for Land Surveying in North Carolina:

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon.

The certificate shall include a statement of error or closure calculated by latitudes and departures. Any lines on the map, which were not actually surveyed, must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the following general form:

State of North Carolina

Town of Aberdeen

I, _____ certify that this map was drawn (by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____, Book ____, Page ____, etc.) (other); that the ratio of precision as calculated by latitudes and departures is 1: _____ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____); that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my hand and seal this ____ day of _____, A.D. 20__.

Registered Land Surveyor

Official Seal

Registration Number

I (officer authorized to take acknowledgements) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the ____ day of _____ (year).

Notary Public

Official Seal”

(8) Following the review by the Subdivision Administrator, the final plat shall be reviewed by the Planning Board at or before its next regularly scheduled meeting which follows at least 15 days after the Planning Board receives the final plat and shall approve or disapprove the final plat with reason within 15 days.

(9) During the review of the final plat the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat (if agreed to by the Town Board of Commissioners). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

(10) If the Planning 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 Aberdeen, North Carolina and that this plat has been approved for recording in the Office of the Register of Deeds of Moore County.

Zoning Administrator

Date

Aberdeen, North Carolina"

(11) If the final plat is disapproved by the Planning Board the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Planning Board as part of the records; one copy of the reasons and three 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 or appeal the decision to the Town Board of Commissioners.

(12) If the final plat is approved by the Planning Board, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the Town Clerk and one print shall be retained by the Subdivision Administrator for the records.

(13) The subdivider shall file the approved final plat with the Count Register of Deeds within 30 days of the approval; otherwise such approval shall be null and void.
(Ord., passed 2-1-89)

§ 154.28.1 PROCEDURE FOR REVIEW OF PUBLIC INFRASTRUCTURE SUBDIVISIONS.

(A) Public infrastructure subdivisions shall be approved by the Subdivision Administrator.

(B) Prior to submitting a final plat pursuant to subsection (C) below, the subdivider may, but is not required to, submit a sketch plan to the Subdivision Administrator for review. If a sketch plan is submitted, the procedure and requirements set forth in § 154.28(A) shall be followed.

(C) The subdivider shall submit three copies of a final plat to the Subdivision Administrator that satisfy the following:

(1) The plat shall be prepared by a Registered Land Surveyor currently licensed in the state by the 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 G.S. § 47-30 and the Manual of Practice for Land Surveying in North Carolina.

(2) The final plat shall be of a size and material suitable for recording with the County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(3) The plat shall meet the specifications of § 154.32.

(4) The following signed certificates shall appear on the plat:

(a) Certificate of Ownership and Dedication.

“I hereby certify that the property shown and described herein is owned by the Town of Aberdeen (or other government entity), which is located in the subdivision jurisdiction of the Town of Aberdeen. On behalf of and as the act of the Town of Aberdeen (or other government entity), I hereby adopt this plan of subdivision.

Date

(Name), Aberdeen Town Manager/
Aberdeen Public Works Director
(or other title and name of other government
entity)

*The Board of Commissioners hereby authorizes the Town Manager, the Town Public Works Director and either of their designees to sign the Certificate of Ownership and Dedication for public infrastructure subdivisions on behalf of and as the act of the Town.

(b) Certificate of Survey and Accuracy.

“State of North Carolina
Town of Aberdeen

I, _____ certify that this map was drawn (by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____) (other); that the ratio of precision as calculated by latitudes and departures is 1: _____ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____); that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my hand and seal this ____ day of _____, A.D. 20__.

Registered Land Surveyor

Official Seal

Registration Number

I (officer authorized to take acknowledgements) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _
____ day of _____, 20__.

Notary Public

Official Seal”

(5) No preliminary plat is required for a public infrastructure subdivision.

(6) No filing fee or acreage fee is required for a public infrastructure subdivision.

(D) The Subdivision Administrator shall review the final plat for compliance with the requirements of this chapter and the zoning ordinance.

(1) During this review, the Subdivision Administrator may appoint an engineer or surveyor to confirm the accuracy of the final plat (if agreed to by the Town Board of

Commissioners). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.

(2) If the Subdivision 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 Aberdeen, North Carolina and that this plat has been approved for recording in the Office of the Register of Deeds of Moore County.

Date

Zoning Administrator
Aberdeen, North Carolina”

(E) If the final plat is disapproved by the Subdivision Administrator, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one copy of the plat shall be retained by the Subdivision Administrator as part of the records; one copy of the reasons and the other 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 the same for reconsideration by the Subdivision Administrator or appeal the decision to the Town Board of Commissioners.

(F) If the final plat is approved by the Subdivision Administrator, one copy shall be retained by the subdivider, one copy shall be retained by the Subdivision Administrator and one copy shall be filed with the Town Clerk.

(G) The subdivider shall file the approved final plat with the Moore County Register of Deeds within thirty (30) days of the approval. Otherwise, such approval shall be null and void.

(Am. Ord. #GP07-08 passed 11-13-07)

§ 154.29 SKETCH PLAN FOR MAJOR SUBDIVISION

(A) Number of copies and contents.

Prior to the preliminary plat submission, the subdivider shall submit to the Subdivision Administrator two copies of a sketch plan of the proposed subdivision containing the following information.

(1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;

(2) The boundaries of the tract and the portion of the tract to be subdivided;

(3) The total acreage to be subdivided;

(4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

(5) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;

(6) The name, address and telephone number of the owner;

(7) The name, if any, of the proposed subdivision;

(8) Streets and lots of adjacent developed or platted properties;

(9) The zoning classification of the tract and of adjacent properties; and

(10) A statement from the County Health Department that a copy of the sketch plan has been submitted to them, if a septic tank system or other onsite water or wastewater systems are to be used in the subdivision.

(B) Submission and review procedure.

(1) The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this chapter and the zoning ordinance; the Subdivision Administrator shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

(2) One copy of the sketch plan shall be retained by the Subdivision Administrator and one copy shall be returned to the subdivider or his authorized agent.
(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.30 PRELIMINARY PLAT SUBMISSION AND REVIEW.

(A) Submission procedure.

(1) For every subdivision within the territorial jurisdiction established by § 154.04, which does not qualify for the abbreviated procedure, the subdivider shall submit a preliminary plat which shall be approved by the Planning Board before any construction or installation of improvements may begin.

(2) Four copies of the preliminary plat (as well as any additional copies which the Planning Board determines are needed to be sent to other agencies) shall be submitted to the Subdivision Administrator at least 15 days prior to the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat. The Subdivision Administrator shall review it and present it to the Planning Board.

(3) Preliminary plats shall meet the specification in § 154.32.

(B) Review by other agencies. Concurrent with submission of the preliminary plat to the Subdivision Administrator, the subdivider shall submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development including but not limited to: the District Highway Engineer as to proposed streets, highways and drainage systems; the county Health Director as to proposed water and sewage systems; the State Department of Natural Resources and Community Development Land Quality Section as to the erosion control requirements; and any other agency or official designated by the Planning Board for review and recommendation. The Subdivision Administrator will advise the subdivider concerning which agencies are applicable for a given plat.

(C) Review procedure.

(1) The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 15 days after the Planning Board receives the preliminary plat and the comments from the appropriate agencies.

(2) The Planning Board shall, in writing, recommend approval, conditional approval with conditions to bring the plat into compliance or disapproval with reasons within 40 days of its first consideration of the plat.

(3) If the Planning Board approves the preliminary plat, such approval shall be noted on two copies of the plat. One copy of the plat shall be retained by the Planning Board and one copy shall be returned to the subdivider. If the Planning Board approves the preliminary plat with conditions, approval shall be noted on two copies to the plat along with a reference to the conditions. One copy of the plat along with the condition shall be retained by the Planning Board and one copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the Planning Board disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Planning Board and one copy shall be returned to the subdivider.

(4) If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat or appeal the decision to the Town Board of Commissioners.

(Ord., passed 2-1-89) Penalty, see § 154.99

§ **154.31 FINAL PLAT SUBMISSION AND REVIEW.**

(A) Preparation of final plat and installation of improvements. Upon approval of the preliminary plat by the Planning 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 chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provide herein. No final plat will be accepted for review by the Planning Board unless accompanied by written notice by the Subdivision Administrator acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time; such portion shall conform to all requirements of this chapter.

(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 Board may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Planning Board if all other requirements of this chapter 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 not exceeding 1.25 times the entire cost as provided herein:

(a) Surety Performance Bond(s). The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in the state. The bonds shall be payable to the town and shall be in an amount equal to 1.25 times the entire cost, as estimated by the subdivider and approved by the Town Board, of installing all required improvements. The duration of the bonds(s) shall be until such time as the improvements are accepted by the Town Board.

(b) Cash or equivalent security. The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution designated as an official depository of the town. The use of any instrument other than cash shall be subject to the approval of the Town Board. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the subdivider 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.

1. Said 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

2. 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.

(2) 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 up to the amount needed to complete the improvements based on an engineering 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.

(3) Release of guarantee security. The Town board may release a portion of any security posted as the improvements are completed and approved by the Planning Board. When the Planning Board approves said improvements, then the Town Board shall immediately release any security posted.

(C) Submission procedure.

(1) The subdivider shall submit the final plat, so marked, through the Subdivision Administrator to the Planning Board meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than 12 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 Planning Board on or before the 12-month anniversary of the approval.

(2) The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the state by the 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 G.S. § 47-30 and the Manual of Practices for Land Surveying in North Carolina.

(3) Five copies of the final plat shall be submitted; two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable and the requirements of the County Register of Deeds.

(4) The final plat shall be of a size suitable for recording with the County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(5) Submission of the final plat shall be accompanied by a filing fee and acreage fees (when applicable). A filing fee of \$25.00 is required, plus \$.75 per lot over ten. When there are two or more principal buildings per site, a fee of \$.75 per building site over two will be paid.

(6) Water and sewer service acreage fees shall be charged for connecting to the water and/or sewer system of the town in order to recover the cost of previous capital investments in the water and sewer systems and to build a capital reserve fund for future investment in the water and sewer facilities. For residential development, these charges shall be calculated on a per lot basis pursuant to the following schedule. (For nonresidential development, these charges shall be based upon the meter size of the project.)

Tap on fee. All water and sewer taps are figured on time and materials (double for out of town).

<i>Residential Acreage Fee</i>	<i>Water</i>	<i>Sewer</i>	<i>Total</i>
1 Bedroom Unit	\$100	\$200	\$300
2 Bedroom Unit	\$100	\$200	\$300
3 Bedroom Unit	\$100	\$200	\$300

<i>Nonresidential Acreage Fee</i>	<i>Water</i>	<i>Sewer</i>	<i>Total</i>
¾ inch	\$200	\$500	\$700
1 inch	\$300	\$1,000	\$1,300
2 inch	\$500	\$2,500	\$3,000
3 inch	\$1,000	\$5,000	\$6,000
4 inch	\$2,000	\$8,000	\$10,000
6 inch	\$5,000	\$15,000	\$20,000

The size of the water meter and the size of the lines to be installed pursuant to the above schedules shall be determined by the Town Public Works Director.

(7) The final plat shall meet the specifications in § 154.32.

(8) The following signed certificates shall appear on all five copies of the final plat.

(a) Certificate of ownership and dedication.

“I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Aberdeen and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines and dedicate all streets, alleys, walks, parks and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary, storm sewer and water lines to the Town of Aberdeen.

_____”
Date Owners

(b) Certificate of survey and accuracy.

“In accordance with the Manual of Practice for Land Surveying in North Carolina;

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon.

The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.”

The certificate shall take the following general form.

“State of North Carolina

Town of Aberdeen

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____, Book ____, Page ____, etc.) (other); that the ratio of precision as calculated by latitudes and departure is 1: _____. (that the boundaries not surveyed are shown as broken lines platted from information found in Book ____, Page ____): that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this ____ day of _____, A.D. 20____.

Registered Land Surveyor

Official Seal

Registration Number

I, (officer authorized to take acknowledgements) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is require by law) official seal this the ____ day of _____ (year)

Notary Public

Official Seal”

(c) Certificate of approval of the design and installation of streets, utilities and other required improvements.

“I hereby certify that all streets, utilities and other required improvements have been installed in a manner approved by the appropriate state or local authority and according to Town specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to Town of Aberdeen has been received and that the filing fee for this plat, in the amount of \$_____ has been paid.

Subdivision Administrator

Date

(9) The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least 15 days after the Planning Board receives the final plat and shall approve or disapprove of the final plat with reasons within 40 days of its first consideration of the plat.

(10) During its review of the final plat the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat (if agreed to by the Town Board). If substantial errors are found, 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, 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 Aberdeen, North Carolina, and that this plat has been approved by the Aberdeen Town Planning Board for recording in the Office of the Register of Deeds of Moore County.

Zoning Administrator

Date

Aberdeen, North Carolina”

(12) If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Planning Board as part of its proceedings; one copy of the reasons and three 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 or appeal the decision to the Town Board of Commissioners.

(13) If the final plat is approved by the Planning Board, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the Subdivision Administrator and one print shall be retained by the Planning Board for its records.

(14) The subdivider shall file the approved final plat with the Register of Deeds within 30 days of Planning Board approval; otherwise such approval shall be null and void. (Ord., passed 2-1-89) Penalty, see § 154.99

**§ 154.32 INFORMATION TO BE CONTAINED IN OR DEPICTED
ON PRELIMINARY AND FINAL PLAT.**

The preliminary and final plats shall depict or contain the information indicated in the following table. An “x” indicates that the information is required.

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Title block containing		
Property designation	x	x
Name of owner	x	x
Location (including township, county and state)	x	x
Date or dates survey was conducted and plat prepared	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	x	x
Corporate limits, township, boundaries, county lines if on the subdivision tract	x	x
The names, addresses and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, 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
North arrow and orientation	x	x
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	x	x
The exact boundary lines of the tract to be	x	x

subdivided, fully dimensioned by lengths and bearings and the location of existing boundary lines of adjoining lands

The names of owners of adjoining properties	x	x
The names of any adjoining subdivisions of record or proposed and under review	x	x
Minimum building setback lines	x	x
The zoning classifications of the tract to be subdivided and adjoining properties	x	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	x	x
The lots numbered consecutively throughout the subdivision	x	x
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site	x	x
The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHBM or other FEMA maps	x	x
The following data concerning streets:		
Proposed streets	x	x
Existing and platted streets on adjoining properties and in the proposed subdivision	x	x
Rights-of-way, locations and dimensions	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
Street names	x	x
Street maintenance agreement in accordance with	x	x
Type of street dedication; all streets must be designated either “public” or “private”. Where public streets are involved which will not be dedicated to a municipality, the subdivider must submit the following documents to the State 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 a municipal or the state system before lots are sold, a statement explaining the status of the street in accordance with § 154.49(B).		x
If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the State Department of Transportation, Division of Highways’ Manual on Driveway Regulations.	x	x
Evidence that the subdivider has obtained such approval.	x	x
The location and dimensions of all:		
Utility and other easements	x	

Riding Trails	X	X
Natural buffers	X	X
Pedestrian or bicycle paths	X	X
Parks and recreation areas with specific type indicated	X	X
School sites	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 purpose 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	X
The plans for utility layouts including:		
Public or Community Sewage System (if any)	X	X ¹
Storm sewers	X	X ¹
Other drainage facilities, (if any)	X	X ¹
Public water system (if any)	X	X ¹
Natural gas lines	X	X ¹
Telephone lines	X	X ¹
Electric lines	X	X ¹
Illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves.	X	X ¹
Plans for individual water supply and septic tank systems, if any	X	X
Profiles based upon mean sea level datum	X	X

for sanitary sewers and storm sewers

Site calculations including:

Acreage in total tract to be subdivided	x	x
Acreage in parks and recreation areas and other nonresidential uses	x	x
Total number of parcels created	x	x
Acreage in the smallest lot in the subdivision	x	x
Linear feet in streets	x	x
The name and location of any property or buildings 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	x
The accurate locations and descriptions of all monuments, markers and control points.	x	x
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established.	x	x
A copy of the erosion control plan submitted to the appropriate authority and a copy of the letter of approval of the erosion control plan by the appropriate authority.	x	x

Topographic map with contour intervals of five feet	x	x
All certifications required in § 154.31	x	x
Any other information considered by either the subdivider or the Planning Board to be pertinent to the review of the plat.	x	x

¹Required on preliminary and final plats for major subdivisions and required only on final plats for minor subdivision.

(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.33 RECOMBINATION OF LAND.

(A) Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

(B) Such an instrument shall be approved by the same agencies as approved the final plat. The Planning Board 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.

(D) When lots have been sold, the plat may be vacated in the manner provided in divisions (A) through (C) above by all owners of the lots in such plat joining in the execution of such writing.

(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.34 RESUBDIVISION PROCEDURES.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

(Ord., passed 2-1-89) Penalty, see § 154.99

REQUIRED IMPROVEMENT, DEDICATION,
RESERVATION, MINIMUM STANDARDS OF DESIGN

§ 154.45 CONFORMANCE.

Each subdivision shall contain the improvements specified in this chapter which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider, unless other means of financing is specifically stated in this chapter. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.46 SUITABILITY OF LAND.

(A) Land which has been determined by the Planning Board, on the basis of engineering or other expert surveys, to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

(B) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the County Health Department, a structural engineer or a soils expert determine that the land is suitable for the purpose proposed.

(C) (1) All subdivision proposals shall be consistent with the need to minimize flood damage; and

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.47 NAME DUPLICATION

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision with the town and its extraterritorial jurisdiction area.
(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.48 SUBDIVISION DESIGN.

(A) Blocks.

(1) The lengths, widths and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

(2) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

(3) Where deemed necessary by the Planning Board, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school to a water area or to areas such as shopping centers, religious or transportation facilities.

(B) Lots.

(1) All lots in new subdivisions shall conform with the dimensional requirements contained in the town's zoning ordinance.

(2) Lots shall meet any applicable County Health Department requirements.

(3) Double frontage lots shall be avoided wherever possible.

(4) Side lot lines shall be substantially at right angles to or radial to street lines.

(C) Easements. Easements shall be provided as follows:

(1) Utility easements. Easements for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear of side lot lines and shall be at least fifteen feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines. The Administrative Officer will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements.

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

(Ord., passed 2-1-89) Penalty, see § 154.99

§ **154.49 STREETS.**

(A) Type of streets required. All subdivision lots shall abut on a public street. All public streets shall be built to the standards of this chapter and all other applicable standards of the town and the State Department of Transportation. Public streets which are eligible for acceptance into the State Highway System shall be constructed to the standards necessary to be put on the State Highway System or the standards in this chapter, whichever is stricter in regard to each particular item, and shall be put on such system. Streets which are not eligible to be put on the State Highway System because there are too few lots or residences shall, nevertheless, be dedicated to the public and shall be in accordance with the standards in this chapter or standards necessary to be put on the State/Town Highway System, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the state system shall be included with the final plat.

(B) 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 and offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

(C) Half-streets. The dedication of half-streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(D) 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. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(E) Access to adjacent properties. Where, in the opinion of the Planning Board, it is necessary to provide for access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided.

(F) Nonresidential street. The subdivider of a nonresidential subdivision shall provide streets in accordance with the standards contained in the most current edition of the State Roads, Minimum Construction Standards booklet; and the standards in this chapter, whichever are stricter in regard to each particular item.

(G) Design standards. The design of all streets and roads within the jurisdiction of this chapter shall be in accordance with the accepted policies of the State Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The most current addition of the State Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction Standards, shall apply for any items not included in this chapter, or where stricter than this chapter.

(1) Right-of-way widths. Right-of-way widths shall not be less than the following and shall supply except in those cases where right-of-way requirements have been specifically set out in the thoroughfare plan.

Rural	Minimum Right-of-Way, Feet
(a) Principal arterial freeways Other	Shall meet DOT standards Shall meet DOT standards
(b) Minor arterial `	Shall meet DOT standards
(c) Major collector	Shall meet DOT standards
(d) Minor collector	Shall meet DOT standards
(e) Local road	Shall meet DOT standards
Urban	Minimum Right-of-Way, Feet
(a) Major thoroughfare other than freeway and expressway	90
(b) Minor thoroughfare	60
(c) Local street	50

The subdivider will only be required to dedicate a maximum of 100 feet of right-of-way. In cases where over 100 feet of right-of-way is desired, the subdivider will be required only to reserve the amount in excess of 100 feet. In all cases in which right-of-way is sought for an access controlled facility, the subdivider will only be required to make a reservation.

(2) Street paving widths. Paving widths for street and road classifications other than local shall be as required by the thoroughfare plan where applicable. Paving widths of local roads and streets shall be as follows.

- (a) Local residential.

Curb and gutter section – 26 feet, to face of curb
Shoulder section – 20 feet to edge of pavement, 4 foot shoulders

(b) Residential collector.

Curb and gutter section – 34 feet, face to face of curb
Shoulder section – 20 feet to edge of pavement, 6 foot shoulders

(3) Geometric characteristics. The standards outlined below shall apply to all subdivision streets proposed for addition to the State Highway System. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under Right-of-Way shall apply.

(a) Design speed. The design speeds for subdivision-type streets shall be:
(Minimum)

Rural	Desirable	Level	Rolling
Minor collector roads	60	50	40
Local roads including residential collectors and local residential	50	50*	40*
Urban			
Major thoroughfares other than freeway or expressway	60	50	50
Minor thoroughfares	60	50	40
Local streets	40	40**	30**

(b) Maximum and minimum grades.

1. The maximum grades in percent shall be:

Design Speed	Level	Rolling
60	3	4
50	4	5
40	5	6
30		9

*Based on projected annual average daily traffic of 400-750. In cases where roads will serve a very limited area and small number of dwelling units, minimum design speeds can be reduced further, but in no case, below 25.

**Based on projected annual average daily traffic of 50-250.

2. A minimum grade for curbed streets normally should not be less than 0.5%; a grade of 0.35% may be allowed where there is a high type pavement accurately crowned and in areas where special drainage conditions may control.

3. Grades for 100 feet each way from intersections should not exceed 5%.

4. For streets and roads with projected annual average daily traffic less than 250, short grades less than 500 feet long, may be 150% greater.

(c) Minimum sight distances. In the interest of public safety, no less than the minimum sight distance applicable shall be provided in every instance. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. (General practice calls for vertical curves to be multiples of 50 feet. Calculated lengths shall be rounded up in each case):

<i>Design Speed, MPH</i>	<i>20</i>	<i>30</i>	<i>40</i>	<i>50</i>	<i>60</i>
<i>Stopping Sight Distance</i>					
Min. Stopping Distance, Ft	150	200	275	350	475
Des. Stopping Distance, Ft	150	200	300	450	650
Minimum k* Value For:					
a: Min. Crest Vertical Curve	16	28	55	85	160
Des. Crest Vertical Curve	16	28	65	145	300
b: Min. SAG Vertical Curve	24	35	55	75	105
Des. SAG Vertical Curve	24	35	60	100	155

k* is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve which will provide minimum sight distance.

Passing Sight Distance	30	40	50	60
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Min. Passing Distance, Ft. (2 lane)	1100	1500	1800	2100
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Min. k* Value for Crest

Vertical Curve	365	686	985	1340
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Sight distance provided for stopped vehicles at intersections should be in accordance with, “A Policy on Geometric Design of Rural Highways”.

(d) The following table shows the maximum degree of curve and related maximum superelevation for design speeds. The maximum rate of roadway superelevation (e) for rural roads with no curb and gutter is .08. The maximum rate of superelevation for urban streets with curb and gutter is .06 with .04 being desirable.

Design Speed		Minimum Radius	Max. Degree of Curve
<i>MPH</i>	<i>Maximum e*</i>	<i>(Rounded Feet)</i>	<i>(Rounded Degrees)</i>
20	.04	125	45.0
30	.04	300	19.0
40	.04	560	10.0
50	.04	925	6.0
60	.04	1410	4.0
20	.06	115	50.0
30	.06	275	21.0
40	.06	510	11.5
50	.06	830	7.0
60	.06	1260	4.5
20	.08	1105	3.5
30	.08	250	2.0
40	.08	460	12.5
50	.08	760	7.5
60	.08	1140	5.0

* = rate of roadway superelevation, foot per foot

(4) Intersection.

(a) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at an angle less than 60 degrees.

k^* is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve which will provide minimum sight distance.

(b) Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property line will be required, if necessary, to provide sight distance from the vehicle on the side street.

(c) Offset intersections are to be avoided unless exception is granted by the Division of Highways. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey center lines.

(d) Intersections with arterials, collector and thoroughfares shall be at least 1,000 feet from center line to center line or more if required by the State Department of Transportation.

(5) Cul-de-sacs. Permanent deadened streets should not exceed 500 feet in length unless necessitated by topography or property accessibility and in no case shall be permitted to be over 900 feet. Measurements shall be from the point where the center line of the deadened street intersects with the center of the turnaround of the cul-de-sac, the end of each cul-de-sac shall be no more than 500 to 900 feet from a through street, measured as stated above. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid the extension of an important street, unless exception is granted by the Planning Board.

(6) Alleys.

(a) Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access.

Alleys shall not be provided in residential subdivisions unless necessitated by unusual circumstances.

(b) The width of an alley shall be at least 20 feet.

(c) Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end as may be approved by the Planning Board.

(d) Sharp changes in alignment and grade shall be avoided.

(e) All alleys shall be designated in accordance with State Department of Transportation Standards.

(H) Other requirements.

(1) Through traffic discouraged on residential collector and local streets. Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools or other places of public assembly.

(2) Sidewalks. Sidewalks may be required by the Planning Board on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four feet and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six inches of concrete at driveway crossings.

(3) 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 in the town or its planning area irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to approval of the Planning Board.

(4) Street name signs. The town shall provide and erect street name signs at all intersections within the subdivisions. The town shall be reimbursed by the subdivider for the cost of the signs.

(5) Permits for connection to state roads. An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest District Engineer of the Division of Highways.

(6) Wheelchair ramps. In accordance with G.S. Ch. 136, Art. 2A § 136-44.14, all street curbs in the State being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(7) Horizontal width on bridge deck.

(a) The clear roadway widths for new and reconstructed bridges serving two lane, two way traffic shall be as follows:

1. Shoulder section approach.

- a. Under 800 ADT design year.

Minimum 28 feet width face-to-face of parapets or rails or pavement width plus 10 feet, whichever is greater.

- b. 800 – 2,000 ADT design year.

Minimum 34 feet width face-to-face of parapets or rails or pavement width plus 12 feet, whichever is greater.

- c. Over 2,000 ADT design year.

Minimum 40 feet. Desirable 44 feet width face-to-face of parapets or rails.

2. Curbs and gutter approach.

- a. Under 800 ADT design year. Minimum 24 feet face-to-face of curbs.

- b. Over 800 ADT design year. Width of approach pavement measured face-to-face of curbs. Where curb and gutter sections are used on roadway approaches, curbs on bridges shall match the curb on approaches in height, in width of face-to-face curbs and in crown drop. The distance from face to curb to face of parapet or rail shall be 1 foot 6 inches minimum or greater if sidewalks are required.

(b) The clear roadway widths for new and reconstructed bridges having four or more lanes serving undivided two-way traffic shall be as follows.

1. Shoulder section approach.

Width of approach pavement plus width of usable shoulders on the approach left and right. Minimum 8'; Des. 10'.

2. Curb and gutter approach.

Width of approach pavement measured face-to-face of curbs.

(8) Curb and gutter. Curbs and gutters may be required by the Planning Board on streets subject to heavy traffic, large amounts of pedestrian traffic, large volumes of runoff rainwater or other circumstances determined by the Planning Board.
(Ord., passed –1-89) Penalty, see § 154.99

§ 154.50 UTILITIES.

(A) Utilities.

(1) Public water and sewer systems. Where public water and/or sewer systems are to be installed as part of the subdivision improvements, such systems shall be designed and installed in accordance with the standards and specifications of the health department and/or the governmental agency responsible for the approval of such systems.

(2) Tap-on stub-outs. Where public water and/or sewer systems are to be installed as part of the subdivision improvements, such systems shall be constructed to provide tap-on stub-outs for each lot plotted in the subdivision.

(3) On-site water and sewer systems. Prerequisite to final plat approval, all lots on the plat to be recorded must be certified in writing by the health department to meet health department minimum standards for on-site water and/or sewer systems when either or both of such systems are proposed to be used.

(4) Street lighting. Street lighting shall be provided and installed at the subdivider's expense, at intervals suggested by the appropriate electrical utility company.

(B) Surface water drainage. The subdivider shall provide a surface water drainage system constructed to the standards of the State Department of Transportation, as reflected in the Handbook for the Design of Highway Surface Drainage Structures, subject to review by the Town of Aberdeen Consulting Engineer.

(1) No surface water shall be channeled or directed into a sanitary sewer.

(2) Where feasible, the subdivider shall connect to an existing surface water drainage system.

(3) Where an existing surface water drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(4) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance and courses shall be of sufficient size to accommodate the drainage area without flooding and designed to comply with the standards and specifications for erosion control of the State of North Carolina and the State Administrative Code Title 15, Ch. 4 and any locally adopted erosion and sedimentation control ordinances.

(5) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 200 feet of horizontal distance.

(6) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased

velocity of runoff from the land disturbing activity in accordance with the State Administrative Code Title 15, Ch. 4.

(7) Anyone constructing a dam or impoundment within the subdivision must comply with the State Dam Safety Law of 1967 and the State Administrative Code Title 15, Subchapter 2K.

(8) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(C) Underground utilities. The subdivider shall be required to install at his expense all electrical, telephone and cable television service for the subdivision in an approved underground system.

(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.51 PLACEMENT OF MONUMENTS.

Unless otherwise specified by this chapter, the Manual of Practice for Land Surveying as adopted by the State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the State Administrative code, Ch. 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of monuments, markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivision.

(Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.52 CONSTRUCTION OR INSTALLATION 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 chapter have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this chapter to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties. (Ord., passed 2-1-89) Penalty, see § 154.99

§ 154.53 OVERSIZED IMPROVEMENTS.

The town may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the town requires the installation of improvements in excess of the standards required in this chapter, including all standards adopted by reference, the town shall pay the cost differential between the improvement required and the standards in this chapter.

(Ord., passed 2-1-89)

ADMINISTRATION

§ 154.65 ADMINISTRATOR.

 This chapter shall be administered and enforced by an Administrative Officer or the designated representative who shall be named by the Town Manager.
(Ord., passed 2-1-89)

§ 154.66 GENERAL PROCEDURE FOR PLAT APPROVAL.

(A) After the effective date of this chapter, no subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Town Planning Board as set forth in § 154.06 and until this approval is entered in writing on the face of the plat by the Town Zoning Administrator and by the Town Clerk.

(B) The County Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

(Ord., passed 2-1-89)

§ 154.67 STATEMENT BY OWNER.

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of the town.
(Ord., passed 2-1-89)

§ 154.68 EFFECT OF PLAT APPROVAL ON DEDICATIONS.

Pursuant to G.S. § 160A-374, the approval of a plat does not constitute or effect the acceptance by the town or public of the dedication of any street or other ground, public utility line or other public facility shown on the plat and shall not be construed to do so.
(Ord., passed 2-1-89)

§ 154.69 VARIANCES.

The Town Planning Board may authorize a variance from these regulations when, in its opinion undue hardship may result from strict compliance. In granting any variance, the Planning Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Board finds all four of the following conditions to exist.

(A) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.

(B) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(C) The circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this chapter.

(D) The granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.
(Ord., passed 2-1-89)

§ 154.70 AMENDMENTS.

(A) The Town Board may, from time-to-time, amend the terms of this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

(B) No amendment shall be adopted by the governing body until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the town at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 nor less than ten days prior to the hearing date. In computing the 10 to 25 day period, the date of publication is not to be counted, but the date of the hearing is.

(Ord., passed 2-1-89)

§ 154.71 GIFT LOTS.

For the purpose of interpreting these regulations, when a parent makes a one time gift to his child of a parcel of land divided from the parent's property, the transaction shall not be deemed to be for the purpose of sale or building development. The resulting transaction shall therefore not be subject to any regulations enacted pursuant to this chapter.
(Ord., passed 2-1-89)

§ 154.72 ABROGATION; GREATER RESTRICTIONS TO PREVAIL.

It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restriction, the provisions of this chapter shall govern.

(Ord., passed 2-1-89)

§ 154.99 PENALTY.

(A) After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this chapter, thereafter subdivides his land in violation of this chapter, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of land before the plat has been properly approved under the terms of this chapter and recorded in the office of the County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town, through its attorney or other official designated by the Town Board, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this chapter shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. § 14-4.

(B) The violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of \$50 to be recovered by the town. Violators shall be issued a written citation which must be paid within ten days.

(C) Each day's continuing violation of this chapter shall be a separate and distinct offense.

(D) Notwithstanding division (B) above, this chapter may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(E) Nothing in this section shall be construed to limit the use of remedies available to the town. The town may seek to enforce this ordinance by using any one, all, or a combination of remedies.

(Ord., passed 2-1-89)

LAND USAGE

WATERSHED

WATER

SUPPLY

PROTECTION

§ 156.01 JURISDICTION.

This Chapter is enacted in accordance with the provisions of NCGS 160A, Article 8, Section 174 and NCGS 143-214.5 and the provisions of this chapter shall apply within the areas designated as a Public Water Supply Watershed by the NC Environmental Management Commission and shall be defined and established on the official zoning map of the Town and shall be further defined on the map as the Water Supply Watershed Overlay District.
(Ord., passed 9-13-93; Am. Ord., passed 04-08-96)

§ **156.02 EXCEPTIONS TO APPLICABILITY.**

(A) Existing development, as defined in this section, is not subject to the requirements of this chapter. Expansions to structures classified as existing development must meet the requirements of this chapter, however, the built-upon area of the existing development is not required to be included in the density calculations.

(B) A pre-existing lot owned by an individual prior to the effective date of this chapter, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this chapter. However, this exemption is not applicable to multiple contiguous lots under single ownership.

(C) Vacant Lots. This category consists of vacant pre-existing lots for which plats or deeds have been recorded prior to the effective date of this ordinance in the office of the Register of Deeds of Moore County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

(Am. Ord., passed 4-8-96)

(1) Where the lot area is below the minimum specified in this chapter the Zoning Administrator is authorized to issue a watershed protection permit; and

(2) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this chapter and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this chapter, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

(D) Occupied Lots. This category consists of lots occupied for residential purposes at the time of the adoption of this chapter. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this chapter, and such lots individually or together have less area than the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(E) Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restriction of this chapter that has been damaged or removed may be repaired and/or reconstructed, except that there are not restrictions on single family residential development, provided:

(1) Repair or reconstruction is initiated within 12 months and completed within two years of such damage; and

(2) The total amount of space devoted to built-upon area may be increased unless stormwater control that equals or exceeds the previous development is provided.

(Ord., passed 9-13-93)

§ **156.03 GENERAL PROVISIONS.**

(A) No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this chapter. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this section.

(B) The approval of a plat does not constitute or effect the acceptance by the town or the public of the dedication of any street or other ground, easement, right-of-way, public utility line or other public facility shown on the plat and shall not be construed to do so.

(C) All subdivisions shall conform with the mapping requirements contained in G.S. § 47-30.
(Ord., passed 9-13-93)

§ **156.04 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL USE. The use of waters for stock watering, irrigation and other farm purposes.

BEST MANAGEMENT PRACTICES (BMP). 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.

BUFFER. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The ***BUFFER*** is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

BUILDING. Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

BUILT-UPON AREA. Built-upon areas shall include that portion of a development project that is covered by impervious cover including buildings, pavement, gravel roads, recreation facilities and the like. (Note: Wooden slatted decks and the water areas a swimming pool are considered pervious.)

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential developments as well as single family residential subdivisions and multi-family developments that do not involve the subdivision of land.

DEVELOPMENT. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.
(Am. Ord., passed 4-8-96)

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this chapter based on at least one of the following criteria:

(1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;

(2) Having an outstanding valid building permit as authorized by the General Statutes; or

(3) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the General Statutes.

EXISTING LOT (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds prior to the adoption of this chapter or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.

HAZARDOUS MATERIAL. Any substance listed as such in SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances or Section 311 of CWA (oil and hazardous substances).

MAJOR VARIANCE. A variance from the minimum statewide watershed protection rules that results in the following:

(1) The relaxation, by a factor greater than ten percent, of any management requirement under the low density option.
(Am. Ord., passed 4-8-96)

MINOR VARIANCE. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five percent of any buffer density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten percent, of any management requirement under the low density option.
(Am. Ord., passed 4-8-96)

NON-RESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

RESIDENTIAL DEVELOPMENT. Buildings for residences such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages and the like and their associated outbuildings such as garages, storage buildings, gazebos and such and customary home occupations.
(Ord., passed 9-13-93)

§ 156.05 SUBDIVISION APPLICATION AND REVIEW PROCEDURES.

(A) All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within the designated Public Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this chapter and may be recorded provided the Watershed Administrator initials the vicinity map.

(B) Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, five copies of the plat and supporting documentation deemed necessary by the Watershed Administrator or the Watershed Review Board.

(C) The Watershed Administrator shall review the completed application and submit recommendations to the Watershed Review Board for further review and final action. The Watershed Review Board shall either approve, approve conditionally or disapprove each application by majority vote of the members present and voting. First consideration of the application shall be at the next regularly scheduled meeting of the Board after the application is submitted. The Board shall take final action within 45 days of its first consideration. The Watershed Administrator or the Board may provide public agencies an opportunity to review and submit their comments and recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action with the prescribed time limit. Those public agencies may include, but are not limited to, the following:

(1) The district engineer with regard to proposed streets and highways;

(2) The director of the Health Department with regard to proposed private water systems or sewer systems normally approved by the Health Department;

(3) The State Division of Environmental Management with regard to proposed sewer systems normally approved by the Division, engineered storm water controls or storm water management in general; or

(4) Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

(D) If the Planning Board, acting as the Watershed Review Board, approves the application, such approval shall be indicated on copies of the plat by the following certificate and signed by the Chairperson or other authorized member of the Board:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

Date

Chairman, Watershed Review Board

NOTICE: This property is located within a Public Water Supply Watershed – development restrictions may apply.

(Ord. passed 9-13-93; Am. Ord., passed 4-8-96) Penalty, see § 10.99

(E) If the Planning Board disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The subdivider may make changes and submit a revised plan, which shall constitute a separate request for the purpose of review.

(Am. Ord., passed 4-8-96)

§ 156.06 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS.

(A) All lots shall provide adequate building space in accordance with the development standards contained herein. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as "NOT FOR RESIDENTIAL PURPOSES."

(B) For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(C) Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater away from surface waters and incorporates best management practices to minimize water quality impacts.

(D) Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the Land Quality Section, Division of Environmental Management, Fayetteville Regional Office.

(E) Roads Constructed in Critical Areas and Watershed Buffer Areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

(Ord., passed 9-13-93)

§ 156.07 ESTABLISHMENT OF WATERSHED AREA.

The purpose of this section is to describe the watershed areas herein adopted. For purposes of this chapter the Town and its' extraterritorial jurisdiction are hereby divided into the following area, WS-II-BW, described as follows:

(A) WS-II Watershed Areas-Balance of Watershed. In order to maintain a predominantly undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre. All other residential and non-residential development shall be allowed a maximum of 12 percent built-upon area. In addition, non-residential uses may occupy ten percent of the balance of the watershed, which is outside the critical areas, with a 70 percent built-upon area when approved as a special non-residential intensity allocation (SNIA). The Watershed Administrator, upon review by the Watershed Review Board, is authorized to approve SNIA's consistent with the provisions of this chapter. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts. Nondischarging landfills and sludge application sites are allowed.

(1) Allowed uses:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990;

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Relate to Water Quality;

(c) Residential development; and

(d) Non-residential development excluding discharging landfills and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(2) Density and built-upon limits:

(a) Single family residential development shall not exceed one dwelling unit per acre on a project-by-project basis. No residential lot shall be less than one acre, except within an approved cluster development; and

(b) All other residential and nonresidential development shall not exceed 12 percent built-upon area on a project-by-project basis except that up to ten percent of the balance of the watershed may be developed for nonresidential uses to 70 percent built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(Ord., passed 9-13-93; Am. Ord., passed 9-9-96) Penalty, see § 10.99

§ 156.08 CLUSTER DEVELOPMENT.

Clustering of development is allowed under the following conditions:

(A) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments as noted above. Built-upon area for the project shall not exceed that allowed under Section 156.06 of this ordinance;

(Am. Ord., passed 4-8-96)

(B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow; and

(C) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(Ord., passed 9-13-93)

§ 156.09 BUFFER AREAS REQUIRED.

(A) A minimum 30 foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minutes) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

(B) No new development is allowed in the buffer except for water dependant structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices. (Ord., passed 9-13-93; Am. Ord., passed 4-8-96) Penalty, see § 10.99

§ 156.10 WATERSHED PROTECTION PERMIT.

(A) Except where a single-family residence is constructed on a lot deeded prior to the effective date of this chapter, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Watershed Administrator. No watershed protection permit shall be issued except in conformity with the provisions of this chapter.

(B) Watershed protection permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.

(C) A watershed protection permit shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within 12 months from the date of issuance.

(Ord., passed 9-13-93) Penalty, see § 10.99

§ 156.11 PUBLIC HEALTH REGULATIONS.

(A) Public Health, In General. No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

(B) Abatement. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality. Where threats to water quality are identified the town shall take action to restrain, correct or abate the condition and/or violation.

(Ord., passed 9-13-93) Penalty, see § 10.99

§ **156.12 VARIANCES.**

(A) The Watershed Administrator shall notify, in writing, each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board. The Board of Adjustment for the town shall review all applications for minor variance from these regulations. Variances granted shall not be contrary to the public interests, owing to special conditions, a literal enforcement of this chapter will result in practical difficulties or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done.

(B) Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done. In addition, the Town of Aberdeen shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

(C) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

(1) A site plan, drawn to scale of at least one inch to 40 feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicated north point, name and address of person who prepared the plan, date of the original drawing and an accurate record of any later revisions;

(2) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application; and

(3) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

(D) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

(1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

(a) If he complies with the provisions of the ordinance, the applicant can secure no reasonable return from nor make reasonable use of his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of his property;

(b) The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship;

(c) The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography, which is different from that of neighboring property;

(d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance or who purchases the property after the effective date of the ordinance and then comes to the Board for relief; and

(e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

(2) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit; and

(3) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety or general welfare.

(E) In granting the variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance. If the variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(F) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(G) A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a building permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six months from the date of the decision.

(H) If the application calls for the granting of a major variance and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- (1) The variance application;
- (2) The hearing notices;
- (3) The evidence presented;
- (4) Motions, offers of proof, objections to evidence and rulings on them;
- (5) Proposed findings and exceptions; and
- (6) The proposed decision, including all conditions proposed to be added to the permit.

(I) The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure not reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (b) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance;

(2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure a reasonable return from or make a practical use the property without the variance or (b) the variance, if granted, will result in a serious threat to the water supply, the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed;

(3) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Water Quality Section, of the Division of Environmental Management on or before

January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance; and

(4) A minor variance is one that does not qualify as a major variance.
(Ord., passed 9-13-93; Am. Ord., passed 4-8-96)

LAND USAGE

STREET NAMING AND RENAMING

(Renumbered to §150.25 - .28; Am. Ord. 1/12/09)