

CHAPTER 154: ZONING

Adopted 8/21/2023

GENERAL PROVISIONS

§ 154.001 ENACTMENT CLAUSE.

A chapter establishing comprehensive zoning regulations for the Town of Bogue, North Carolina, and providing for the administration, enforcement and amendment thereof, in accordance with the provisions of NCGS 160D-702, and for the repeal of any ordinance in conflict herewith.

§ 154.002 SHORT TITLE AND PURPOSE.

- A. The Town Council deems it necessary for the purpose of promoting the health, safety, morals and general welfare of the town to enact this chapter. To achieve this end, the Town Council has appointed a Planning Board to recommend the boundaries of the various original districts and appropriate regulations to be enforced herein.
- B. As so, the Planning Board has divided the town into districts and has prepared regulations pertaining to districts in accordance with a comprehensive plan and designed to lessen congestion throughout the town; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- C. The Planning Board has given reasonable consideration, among other things to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town, and the Planning Board has submitted its final report to the Town Council. The Town Council has given due public notice of hearings relating to zoning districts, regulations and restrictions, and has held public hearings, and all requirements of the General Statutes of North Carolina, with regard to the preparation of the report of the Planning Board and subsequent action of the Town Council, have been met.

§ 154.003 ADOPTING ORDINANCE-AN ORDINANCE ADOPTING A REVISION OF THE ZONING ORDINANCE.

Be it ordained by the Town Council of the Town of Bogue, State of North Carolina, as follows:

- A. The revised Zoning Chapter, dated July 20, 1999, is hereby ordained as the Town of Bogue Zoning Chapter.
- B. All of the provisions of the revised Zoning Chapter shall be in force and effect on and after the effective date of this chapter.
- C. All zoning ordinances previously adopted by the Town Council and in force on July 20, 1999, and not contained in the revised Zoning Chapter, are hereby repealed from and after the effective date of this chapter, except as hereinafter provided in divisions (D) and (E) below.
- D. The repeal provided in division (C) above shall not affect any prosecution, action, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this chapter.
- E. Furthermore, the repeal provided in division (C) above shall not affect any right, right-of-way or easement acquired or established in any street, road, highway or other public place within the town; any ordinance of the town providing for laying out, opening, altering, widening, relocating, straightening, acceptance or vacation of any street, road or highway within the town, an ordinance or resolution of the Town Council, or permits validly issued and in full force and effect as of the effective date of this chapter.
- F. Sufficient copies of the revised Zoning Chapter shall be maintained in the Planning Department of the Town of Bogue for inspection by the public at all times during regular office hours. The enactment of this adopting ordinance coupled with availability of copies of the revised Zoning Chapter for inspection by the public shall be deemed, held and considered to be due and legal publication for all provisions of the revised Zoning Chapters for all purposes. The planning staff shall make adequate arrangements for all or any portions of the revised Zoning Chapter to be copied by any person desiring a copy thereof.
- G. Each section of the revised Zoning Chapter is an independent section or part of a section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

§ 154.004 ADOPTING ORDINANCE-AN ORDINANCE ADOPTING A ZONING MAP.

Be it ordained by the Town Council of the Town of Bogue, Carteret County, State of North Carolina as follows:

- A. The Zoning Map of the Town of Bogue presented to the Town Council this date, which Zoning Map is entitled Town of Bogue Zoning Map, dated July 20, 1999 is hereby designated the Official Zoning Map of the Town of Bogue, and is hereby adopted by the Town Council as the official Zoning Map of the Town of Bogue.

- B. Official Zoning Map: The Zoning Map entitled Bogue Zoning Map and dated July 20, 1999, is hereby designated the Official Zoning Map of the Town of Bogue.

§ 154.004.2 ZONING MAP.

The current Zoning Map, properly attested, shall remain on file in the office of the Town Clerk and be available for inspection by the public. All prior zoning maps shall also be available for public inspection.

§ 154.004.3 PLAN.

- A. The Town shall have an adopted, reasonably maintained comprehensive plan or land use plan that corresponds to this Ordinance and is consistent with NCGS 160D-501. A Coastal Area Management Act (“CAMA”) Core Land Use Plan may serve as this required land use plan.
- B. Any plan adoption or plan update shall be made as a legislative decision following the process specified in NCGS 160D-501(c).

§ 154.005 JURISDICTION.

These regulations shall govern the development and use of land and structures in all zoned areas of the Town of Bogue and any extraterritorial jurisdiction.

§ 154.006 INTERPRETATION OF ZONING MAPS.

Where uncertainty exists with respect to the boundaries of the various districts shown on the maps cited in this chapter, the following rules will be used to interpret the maps.

- A. In cases where a boundary line is located within a street or alley right-of-way, railroad or utility right-of-way or easement, canal, navigable or unnavigable water body, it will be considered to be in the center of the street or alley right-of-way, railroad or utility easement, canal or water body. If the actual location of the right-of-way, easement, canal or water body varies slightly from the location as shown on the map, then the actual location will control.
- B. Where a district boundary is shown to approximately coincide with a property line or city limit line, the property line or city limit line will be considered to be the district boundary, unless otherwise indicated.
- C. In cases where a district boundary does not coincide or approximately coincide with any street or alley, railroad, water body or canal or property line, and no dimensions are shown, the location of the boundary will be determined by the use of the scale appearing on the map.

§ 154.007 BONA FIDE FARMS EXEMPT.

In accordance with NCGS 160D-903, this chapter shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm and its related uses, within any extraterritorial jurisdiction established by this Town.

§ 154.008 ZONING DISTRICTS.

For the purposes of this chapter, the incorporated areas and extraterritorial jurisdiction of the Town of Bogue as shown on the Official Zoning Map, are divided into Zoning Districts RA, R-20, R-15, R-15M, B-1, OI and IW.

The zoning districts available under the Town of Bogue Zoning Chapter shall be those set forth below:

1. RA (Rural Agricultural District): The district encompasses those lands which are primarily suited for agriculture, agriculturally related uses and low density residential or woodlands.
2. R-20 (Residential District, 20,000 square foot minimum lot size): A single-family residential district established to maintain a density of approximately two units per acre with a 20,000 square foot minimum lot size.
3. R-15 (Residential District, 15,000 square foot minimum lot size): A residential district requiring a minimum of 15,000 square feet per lot if water or sewer is available and a minimum of 20,000 square feet if no public services are available.
4. R-15M (Residential District, 15,000 square foot minimum lot): If water or sewer is available and a minimum of 20,000 square feet if no public services are available. This district allows manufactured homes residential structures built as per Volume 1B of the North Carolina Building Code.
5. B-1 (General Business District): A business district established for retailing of merchandise and for conducting professional and business service.
6. I-W (Industrial and Wholesale District): A district suited for the location of manufacturing and other related uses which would be incompatible with business and residential areas.
7. OP (Office and Institutional District): A district established to provide office, institutional, and professional development complexes.

§ 154.009 ZONING AFFECTS EVERY BUILDING AND USE.

No building, structure or land may be used or occupied, and no building, structure or part thereof may be erected, constructed, reconstructed, moved, enlarged or structurally altered unless

in conformity with all the regulations of this chapter for the district in which it is located, except as otherwise provided by this chapter.

§ 154.010 ROUNDING OFF FRACTIONS.

When a requirement of this chapter results in a fraction of a unit, a fraction of one-half or more will be rounded off and considered a whole unit. Fractions of less than one-half will be rounded off to the nearest lower number of units. For example, when the determination of the number of dwelling units permitted on a lot results in a fraction of a dwelling unit, a fraction of one-half or more will be considered a dwelling unit and a fraction of less than one-half will be disregarded.

§ 154.011 LOTS DIVIDED BY ZONING DISTRICT BOUNDARIES.

In the event that a district boundary line on the Zoning Map divides a lot or tract of single ownership, each part of the lot may only be used in conformity with the regulations established by this chapter for the district in which each part is located. Should the division prove to be an impractical application and an unreasonable hardship, the lesser portion of the lot or tract will be regulated the same as the greater portion of the lot or tract; or in the case of an equally divided lot or tract, the more restrictive zoning designation applies.

§ 154.012 REDUCTION OF LOT AREA PROHIBITED.

No lot existing at the time of adoption of this chapter may be reduced in its dimensions or area below the minimum requirements of this chapter for the district in which it is located unless specifically authorized by other provisions of this chapter.

§ 154.013 INTERPRETATION AND APPLICATION OF THESE REGULATIONS.

In the interpretation and application of this chapter, the provisions of the chapter will be construed to be the minimum requirements adopted to promote the public health, safety, comfort, convenience and general welfare.

§ 154.014 RELATION OF THIS CHAPTER TO OTHER ORDINANCES.

It is not intended that this chapter will in any way repeal, annul or interfere with the existing provisions of any law or ordinance except the zoning ordinance which this chapter replaces. In addition it is not intended that this chapter will in any way repeal, annul or interfere with any rules, regulations or zoning permits which were legally adopted or issued under previous ordinances for the use or development of land or structures.

§ 154.015 ZONING BOUNDARIES OVER SURFACE WATERS.

Since NCGS 160D-702(a), as amended, permits a town to regulate development over estuarine waters and over lands covered by navigable waters owned by the state pursuant to NCGS 146-12, within the bounds of that town, the zoning boundaries for waterfront parcels shall be extended linearly 400 feet waterward of the mean high water mark. This water surface zoning shall not unreasonably infringe on the right to navigation protected by the federal government or on other rights, such as shell fishing rights, allowed by state government.

§ 154.016 RULES OF CONSTRUCTION AND DEFINITIONS.

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

1. As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
2. Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
3. Words used in the present tense include future tense.
4. The word "person" includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
5. The word "may" is permissive.
6. The word "shall" is always mandatory and not merely directive.
7. The words "used for" shall include the meaning "designed for."
8. The words "used" or "occupied" shall mean "intended, designed, and arranged to be used or occupied."
9. The word "lot" shall include the words "plot," "parcel," "tract," "site," and "premises."
10. The word "structure" shall include the word "building."
11. The word "Council" shall include "Town Council" of the Town of Bogue, North Carolina.
12. The words "Planning Board" shall mean the "Town of Bogue Planning Board."
13. The word "town" shall mean the "Town of Bogue," a municipal corporation of the State of North Carolina.
14. The words "map," "zoning map," and "Bogue Zoning Map" shall mean the "Official Zoning Map for the Town of Bogue, North Carolina."

15. The words "Board of Adjustment" shall mean the "Town of Bogue Board of Adjustment."
16. The words "Ordinance" and "regulation" shall mean the "Town of Bogue Ordinances."
17. The words "dwelling," "dwelling units," "rooming house," "rooming units," and "premises" shall be construed as though they were followed by the words "or any part thereof."

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

Abandonment: To visibly cease or discontinue a use or activity, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal period of vacation or seasonal closure.

Abate: In addition to its common meaning, to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such manner and to such an extent as the enforcement officer in his/her judgment shall determine is necessary in the interest of the public health, safety and welfare of the community and to carry out the purposes and provisions of this article.

Abutting: Having a common border with or being separated from such a common border by a right-of-way, alley, or easement.

Accessory building or use: A structure or use that: is clearly incidental to and customarily found in connection with a principal building or use; is subordinate to and serves a principal building or principal use; is subordinate in area, extent, or purpose to the principal use served; contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal buildings or principal use served; and is located on the same lot as the principal building or use served.

Accessory outdoor displays: The outdoor display or storage of merchandise on private property which is subordinate to the indoor retail establishment.

Accessory personal services: This classification shall include a barber/beauty shop, tanning salon, and other similar uses. The customer base shall be limited to the residents of the multifamily project in which the accessory personal service is located and the services shall be provided in a public area of the multifamily project.

Accessory structure (appurtenant structure): Refer to accessory building or use.

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

Address: The official house, building, or structure number assigned by the town for a specific lot, building, or portion thereof.

Administrative Decision: Decision typically made by the Zoning Administrator (also known as Zoning Enforcement Officer) in the implementation, administration, or enforcement of this Ordinance that involves the determination of facts and the application of objective standards set forth in NCGS 160D or this Ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

Adult cabaret: Any place which features topless dancers, go-go dancers, strippers, male or female impersonators or similar entertainment.

Adult day care center: An agency, organization, or individual providing daytime care to adults not related by blood or marriage, or not the legal wards of the attendant adult at any place other than an occupied dwelling.

Adult day care center, family: A private residence where care, protection, and supervision are provided, for a fee, at least twice a week to no more than six (6) adults at one (1) time who are not related by blood or marriage.

Adult establishment: Any place defined in NCGS 14-202.10 or an adult cabaret.

AEC: Area of Environmental Concern.

Air Rights: The ownership or control of all land, property, and that area of space at and above a horizontal plane shall be at a height that is reasonably necessary or legally required for the full and free use of the ground surface.

Alley: A public thoroughfare which affords a secondary means of access to abutting property.

Alteration: Any change, addition, or modification in construction or occupancy of an existing structure.

Alteration, structural: Any change in the supporting members of a building or structure, such as load-bearing walls, floor joists, columns, beams, or girders; provided, however, that the application of any exterior siding to an existing building shall not be considered a structural alteration.

Amusement arcade: A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained. This use is categorized as "recreation use, indoor."

Animal hospital/veterinary clinic: A place or facility which provides dental, medical, and surgical care for dogs, cats, and other domesticated animals within an enclosed building. Kennels are not included within this definition.

Antenna: Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

Apartment: A room or suite of two (2) or more rooms which is designed or intended for occupancy by, or which is occupied by, one (1) family or person.

Appeal: A request for a review of the Administrator's interpretation of any provision of this Ordinance. For floodplain management and flood insurance purposes, a request for review of the Floodplain Administrator's interpretation of any provisions of the flood damage prevention ordinance.

Arcade Club: An establishment that features a combination of video games, arcade games, and/or table games such as air hockey or foosball and/or pinball machines and may include a bar area where alcohol may be sold.

Attractive Nuisance: Any condition which is unsafe, unhealthy, unprotected and might prove detrimental to children whether on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; or any lumber, trash, fences, debris or vegetation which might prove hazardous or dangerous to inquisitive minors.

Auction House: A place of business offering for sale or resale art, antiques, jewelry, porcelain, and similar goods which are owned by the owner/operator or have been placed there by

consignment for normal business sales, and which periodically holds auctions on the premises for the purpose of selling said goods to the highest bidder at public auction.

Authorizing Official: The supervisory employee of the police department, designated to authorize the removal of vehicles under the provisions of section.

Automobile Repair Garage: An establishment where the following services are available: major mechanical repairs, including engine overhaul and transmission work; body rework; painting; and customizing. Repair garages can also offer services similar to service stations.

Automobile Service Station: A building or lot dedicated to the rendering of automotive services such as the sale of gasoline, oil, grease, and accessories and the minor repair of automobiles such as tune ups, brake adjustments, and tire changes, excluding body working, overhauling, and painting.

Automobile wrecking: Refer to junkyard.

Bar/Cocktail Lounge: Any premises licensed to sell alcoholic beverages which are sold at retail for consumption on the premises and minors are excluded therefrom by law. It shall not mean a premises wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of said beverages according to state statutes.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast Inn: A house, or portion thereof, where short term lodging rooms and breakfast are provided. The operator of the inn shall live on the premises or in adjacent premises.

Berm: A grassed, earthen mound designed to provide visual interest and screening and/or decrease noise.

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.

Billboard: Refer to Sign, outdoor advertising.

Block: A parcel of land which is bounded on all sides by public streets, highways, railroad rights-of-way, parks or green strips, rural land or drainage channels, bodies of water, or a combination thereof.

Boardinghouse: A building dedicated to the lodging or feeding or both of non transient persons for compensation.

Boat Sales/Storage: An establishment in business to sell and store boats. This definition excludes commercial marinas. This use is classified under retail, marine-related.

Borrow Pit: Any place or premises where dirt, soil, sand, gravel, or other material is excavated below the grade for any purpose other than that necessary and incidental to site grading or building construction. Borrow pits must meet any applicable state requirements.

Building: A structure designed to be used for occupancy, storage, or shelter. The term "building" shall be construed as if followed by the words "or part thereof." For floodplain management and flood insurance purposes, see Structure.

Building Height: The vertical distance from the average finished grade of the building lot to the highest point of the building, including rooftop structures as defined in the North Carolina Building Code (i.e. stairwells, elevator shafts, etc.).

Building Line: The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

Building Setback Line: Refer to Setback line.

Bulkhead/Sea Wall: Any manmade structure erected for the purpose of preventing earth, soil or sand from along the banks of a canal, waterway or boat basin from washing or otherwise eroding

into the waters of the canal, waterway or boat basin, or which structure prevents the water of the canal, waterway or boat basin from eroding or washing away the bank or shoreline of the property.

Business Residence: A building which contains both a business and a residence.

Car Wash: A freestanding building or structure providing facilities for washing motor vehicles.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated within the boundaries of such cemeteries. This definition does not include pet cemeteries.

Changeable Copy: A sign on which letters, numbers, or other copy can be changed to display different messages or images. This definition includes mechanical, manual, and electronic changeable copy of signs as well as tri-view signs.

Changeable Copy, Electronic: A sign conveying a message in an electronic format. This definition includes digital marquee signs.

Child Day Care (After-School): A facility receiving a payment, fee, or grant for the care of six (6) or more children thirteen (13) years of age or less for four (4) hours or less per school day and more than four (4) hours during school holidays and breaks.

Child Day Care (Home): A private residence where care, protection, and supervision are provided for a fee at least twice a week to no more than five (5) children at one (1) time, including children of the adult supervisor.

Child Day Care (Preschool, Nursery): Any child care arrangement or facility under which six (6) or more children of less than thirteen (13) years of age, not including the operator's after-school children, receive care away from their own home at least once per week for more than four (4) hours but less than twenty-four (24) hours per day, regardless of the time of day (and regardless of whether the same children attend regularly), by persons other than his parents, grandparents, aunts, uncles, brothers and sisters who are not minors and guardians or full-time custodians. The following are not included: public schools, nonpublic schools, whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps which are run by nonprofit organizations exempt from taxation pursuant to Article 4 of Ordinance 105 of the NCGS (105-103 et seq.); and facilities licensed under Article 2 of Ordinance 122C of the NCGS (122C-21 et seq.).

Church: An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clear Cutting: The systematic removal of trees, shrubs, or undergrowth with the intention of preparing real property for nonagricultural development purposes. This definition shall not include the selective removal of trees and shrubs when the soil is left relatively undisturbed, removal of dead trees, or normal mowing operations.

Clinic: A building designed and used for the care and treatment of human patients that does not include overnight care facilities.

Club or Lodge, Private: An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities operated on a nonprofit basis for the benefit of its members and holding a certificate of nonprofit organization from the Secretary of State of the State of North Carolina.

Cluster Housing: Dwellings which are grouped together on lots which do not necessarily meet the minimum lot size requirements but do meet the density requirements of the district in which it is located.

Cluster Housing Development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas. The development must meet the density requirement of the zoning district in which it is to be located.

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

Communication Services: This classification includes businesses which are associated with the communication field including answering services, radio services, cellular telephone services, etc.

Communication Tower: A structure that is designed and constructed for the purpose of supporting one or more antennas including without limitation self-supporting lattice towers, guyed towers or monopole towers.

Condominium Hotel/Condotel: Multifamily dwelling of ten (10) or more residential units in condominium form of ownership utilized for mixed transient and permanent occupancy, in which some or all units may be rented out by the owner[s] thereof on a daily or more extended basis, and which shall have on-site front desk staffed twenty-four (24) hours, seven (7) days a week every week, three hundred sixty-five (365) days a year and management services. Other typical hotel services may be provided for occupants of the premises such as cleaning, laundry, switchboard service, meeting rooms, limited breakfast service and fitness center; provided, however, that no full service restaurant or bar shall be operated on the premises. The maximum size of the facility will be limited by available parking spaces based upon two (2) spaces per unit.

Congregate Housing: Any dwelling containing more than two (2) dwelling units.

Cul-de-sac: A short street having but one (1) end open to traffic and the other end being permanently or temporarily terminated in which a vehicular turnaround is provided.

Curb Cut: A lowered or cut-away curb for purposes of ingress and egress for vehicles to property abutting a public street.

Dedication: A transfer, by the owner, of a right to use land for stated purposes. Because a transfer of property rights is entitled, dedication must be made by written instrument, and is completed by an acceptance.

Density: The number of dwelling units permitted per net acre of land.

Deteriorated: A dwelling that is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this Ordinance at a cost not in excess of fifty (50) percent of its value, as determined by finding of the inspector.

Determination: A written, final, and binding order, requirement, or determination regarding an administrative decision.

Development: Per NCGS 160D-102, this includes any of the following:

- (A) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- (B) The excavation, grading, filling, clearing, or alteration of land.
- (C) The subdivision of land as defined in NCGS 160D-802.
- (D) The initiation or substantial change in the use of land or the intensity of use of land.

Development Approval. An administrative or quasi-judicial approval made pursuant to this Ordinance and NCGS 160D that is written and required prior to commencing development or undertaking a specific activity, project, or development proposal. They include, but are not limited to, zoning permits, special use permits, and variances. The term also includes all other regulatory approvals required by regulations adopted pursuant to NCGS 160D, including building permits issued.

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 Ordinance at a cost not in excess of fifty (50) percent of its value, as determined by finding of the inspector.

Discontinue: To visibly break the continuity; cease to operate, administer, use, produce, or take.

Dismantled: That from which essential equipment, parts or contents have been removed or stripped if the outward appearance verifies the removal.

Distillery: A distillery as permitted by the NCGS is an enterprise which engages in one or more of the following:

- A. Manufacture, purchase, import, possess, and transport ingredients and equipment used in the distillation of spirituous liquor;
- B. Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the state, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations;
- C. Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

District, Zoning: A section of the Town of Bogue within which the zoning regulations are uniform.

Dormitory: A building used as living quarters for persons comprising a student body or a religious order or receiving resident care; i.e., an accessory use for a college, boarding school, orphanage, convent, monastery, or other principal institutional use.

Dry Cleaning/Laundry Establishment: A laundromat which is primarily self-service and/or has a laundering/dry cleaning service available for walk-in customers.

Duplex: Refer to dwelling, two-family (duplex).

Dwelling: Any building, structure, manufactured home, or mobile home, or part thereof, that is used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of NCGS 160D, regarding minimum housing codes, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose. A dwelling consists of one or more dwelling units.

Dwelling, Multifamily: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each, including apartments, hotel apartments, and group housing projects, (including some forms of unit ownership (condominium) development and townhouse development).

Dwelling, Multifamily (Age-Restricted): A multifamily dwelling intended for occupancy by persons' age 55 and up shall be permitted in districts which allow for dwelling, multifamily as provided by exemption to the federal Fair Housing Act.

Dwelling, Single-Family, Detached: A detached residence, other than a manufactured home, designed for or occupied by one (1) family, entirely surrounded by open space.

Dwelling, Two-Family (Duplex): A residence designed for or occupied by two (2) families, with separate housekeeping and cooking facilities for each.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons (a housekeeping unit), including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Easement: A grant by the property owner of land for a specified use by another.

Election: A formal and organized process of electing or being elected, of members of a political body, sanctioned by the Carteret County Board of Elections.

Enforcement Officer: Same as "public officer"

Event Center (event venue, banquet hall, catering facility): A commercial establishment and associated grounds engaged in the hosting of pre-planned events such as weddings, receptions, banquets, bridal showers, baby showers, anniversaries, birthday parties, corporate events, and similar functions. A kitchen for renter or caterer use may be included as an accessory use. This use shall not include restaurant facilities which only occasionally lease out to private events.

Evidentiary Hearing: A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

Extermination: The control and extermination of insects, rodents, or other pests by eliminating their harborage places; 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.

Fabricating Shop: A shop which assembles prepared parts into finished products. This definition does not include the manufacturing of the prepared parts.

Facade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Family: One (1) or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, fraternity, or sorority house or a hotel.

Family Care Home: A home: 1) with support and supervisory personnel; and 2) providing room and board, personal care, and habilitation services in a family environment for not more than six (6) people with disabilities. A person with disabilities is defined in NCGS 122C-3(11)b.

Family Shelter Home: A home providing temporary shelter for not more than nine (9) persons who are victims of domestic violence as defined by NCGS 50B-1, together with not more than two (2) persons providing supervision and other services to such persons, all of who live together as a single housekeeping unit.

Farmer's Market: An open air market in which fresh produce is sold.

Fence: A structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement. This definition includes chain-link, split rail, stockade, picket, shadow box, and other types of fences.

Fill: The act of depositing soil, sand, stone, or other inert debris customarily used for supplementing or augmenting land. The term "fill" also applies to the added soil, sand, stone, or other deposited material.

Financial Institution: An establishment which conducts business involving the circulation of money, the granting of credit, the making of investments, and the provision of banking facilities.

Flea Market: An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private yard sales.

Floor: The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles. For floodplain management and flood insurance purposes, see lowest floor.

Floor Area, Gross: The sum of the areas of the several floors of a building, including areas used for human occupancy, including basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy or any floor space in accessory buildings, in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

Floor Area Ratio (FAR): The maximum square foot amount of total floor area including all stories permitted for each square foot of ground area.

Frontage: The distance between the two (2) side lot lines as measured along the street right-of-way line. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage.

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.

Garage, Public: Any building or premises used for the storage of motor vehicles for profit.

Garbage: The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Garden Center: An establishment engaged in indoor and/or outdoor retailing of nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, sod, mulch, and pine straw. Garden centers may be associated with a landscaping business providing offsite landscaping services.

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, pantries, foyers or communicating corridors, closets, and storage spaces.

Health/Recreational Facility: Indoor facilities operated to provide exercise and health improvement opportunities and which may include, but are not limited to, gymnasiums, diet centers, weight training, exercise, racquetball, tennis, swimming pool, and related activities. This use is categorized as "recreation use, indoor."

Hazardous Waste Management Facility: A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

Home Occupation: An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Impervious Surface: The portion of a project that is covered by impenetrable or partially impenetrable cover, including buildings, pavement, recreation facilities, etc., but not including wood decking.

Industry, Heavy: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions such as noise, waste, odor, vibration, etc.

Infestation: The presence within or around a dwelling of any insects, rodents, or other pests.

Inoperative: Incapable of functioning or producing activity for mechanical or other reasons.

Institution of Higher Learning: A college, university or trade school.

Intersection Point: The point at which two (2) property lines meet at a street intersection.

Junk: Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles and parts thereof, boats and boat motors, household fixtures and salvage materials.

Junked Motor Vehicle: As authorized and defined in the NCGS, the term, junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and:

(A) Is partially dismantled or wrecked; or

(B) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(C) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00).

Junkyard: Use of property for indoor and/or outdoor storage, sale, or resale of junk including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel, materials and equipment, or for the dismantling, demolition, or abandonment of automobiles and boats or other vehicles or machinery or parts thereof.

Kennel: An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Landscaping: Alterations to the features of a plot of ground intended to restore the natural environment and make it more attractive through the addition of trees, shrubs, and groundcover.

Legislative Decision: The adoption, amendment, or repeal of a regulation under NCGS 160D.

Legislative Hearing: A hearing to solicit public comment on a proposed legislative decision.

Lienholder: Any person, as defined in this article, who has a recorded interest in real property, including mortgagee, beneficiary under a deed of trust, or holder or other recorded liens or who claims an interest in real property.

Lot: A parcel of land of at least sufficient size to meet the minimum zoning requirements for use, coverage, and area and to provide such yards and other open spaces as are herein required.

Lot, Corner: A lot which has at least two (2) adjacent sides abutting for their full lengths on a street.

Lot Depth: The mean horizontal distance between front and rear lot lines.

Lot, Interior: A lot other than a corner lot with only one (1) frontage on a street.

Lot Line: A line dividing one (1) lot from another lot or from a street or alley.

Lot Line, Front: The line dividing a street right-of-way from a lot as defined in this Ordinance. All lot lines which are parallel to the street right-of-way shall be considered front lot lines.

Lot Line, Rear: The lot line not intersecting a front lot line that is most distance from and most closely parallel to the front lot line.

Lot Line, Side: Any lot line not a front or rear lot line.

Lot of Record: A lot which is a part of a subdivision or plat which has been recorded in the office of the register of deeds of Carteret County, or a lot described by metes and bounds, the description of which has been so recorded in the Office of the Register of Deeds.

Lot, Through: A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Lot Width: The horizontal distance between the side lot lines measured at the required front setback line.

Manufactured Home: A structure which is transportable in one (1) or more sections, built on a permanent chassis to HUD standards and designed to be used as a dwelling 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: A parcel of land under unified control that has been planned and improved for the placement of manufactured housing for dwelling purposes.

Manufactured Ice Vending Machines, Freestanding: An automated, freestanding building or modular unit which produces, stores, dispenses and/or bags ice to a consumer for a fee.

Marina, Commercial: Any dock or basin and associated structures providing permanent or temporary commercial harboring of ten (10) or more commercial and/or pleasure boats and providing services related to the facility, including, but not limited to, fuel sales, retail and food sales, drystack boat storage, and other related services.

Marine Storage/Repair Yard: An establishment where the following services are available: boat building, boat storage, marine engine overhaul and repair, and boat repairs, painting, and customizing. May also include marine contractor equipment and materials needed to perform coastal marine jobs for the preservation of shoreline, safety of channels and bridge fender systems, and to access coastal waters and to cross coastal waters.

Marketplace: A space, either open or within a building, where a public community market provides space to vendors to display and distribute their products and services, such as homemade arts and crafts; fresh produce; meats and fish; food and beverage distribution; entertainment; and other similar products. This definition does not include a flea market.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation to the human body is offered as an incidental or accessory use. This use shall be considered as an adult establishment.

Microbrewery: A small facility for the brewing of beer that produces less than fifteen thousand (15,000) barrels per year. It may often include a tasting room and retail space to sell the beer to patrons on the site and may be affiliated with an attached restaurant.

Minimum Building Setback Line: Refer to setback line.

Mobile Home: Refer to manufactured home.

Mobile Home Park: Refer to manufactured home park.

Motel (Hotel, Motor Inn): A facility offering transient lodging accommodations on a daily rate to the general public, which may provide additional services, such as restaurants, meeting rooms, and recreational facilities.

Motor Vehicle or Vehicle: All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Motor Vehicle Sales: The sale of any vehicle which requires the obtaining of a title from the North Carolina Division of Motor Vehicles.

Multi-Tenant Development: A development consisting of one (1) or more lots and two (2) or more businesses, services, or other non-residential entities or establishments which share

appurtenant facilities, such as driveways, pedestrian walkways, or off-street parking or loading facilities.

Natural Vegetation: A generally undisturbed, maintenance-free, self-perpetuating stand of vegetation comprised of indigenous shrubs, flowers, wild grasses, and trees.

Nonconforming Building or Use: Any legally existing building or use which fails to comply with the provisions of this Ordinance.

Nonconforming Lot: A lot which does not conform to the size requirements of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated.

Nonconforming Structure: Any building that does not meet the limitations on building size, height, and/or location on a lot for the district in which such building is located or the use to which such building is being put.

Nonconforming Use: A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

Nuisance: Any public nuisance proscribed by statute, regulation, or this article or known at common law or in equity jurisprudence.

Nursing home (Convalescent Home, Rest Home)/Assisted Living Facility: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

Occupant: Any person over one (1) year of age living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Open Space: An area that is intended to provide light and air and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel and power line rights-of-way.

Open Space, Common: Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

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

Outdoor Storage: The keeping of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours in an unenclosed area which is subject to the weather.

Outdoor Vending Self-Service Kiosk: Small, stand-alone structure used to house, cover and screen outdoor vending self-service machines that dispense products or services provided to consumers for payment or at no charge.

Outdoor Vending Self-Service Machine: Any self-contained or connected appliance, machine, and/or container which dispenses or provides storage of a product or service. Newspaper racks, telephone booths, automated teller machines, coin-operated rides, drink/food machines, FedEx/UPS drop-off boxes, and recycling machines are examples of vending machines as defined by this section. This definition shall not be construed as including publicly owned parking meters or change makers.

Owner: Any persons who alone or jointly or severally with others shall:

- (A) Have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (B) Have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Ordinance, and of rules and regulations adopted pursuant to this Ordinance, to the same extent as if he were the owner;
- (C) The registered owner of a vehicle; or
- (D) The person(s) to whom property tax is assessed on personal property as shown on the last equalized assessment roll of the county; or
- (E) For purposes of nuisance abatement owner shall include renter(s) lessee(s) and other occupant(s) residing permanently or temporarily on real property.

Parking Facility: An area where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking. This definition includes open parking lots as well as a public garage and parking deck.

Parking, Shared: The development and use of parking areas on two (2) or more separate properties for joint use by the businesses on those properties.

Parking Space: A unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one (1) motor vehicle.

Parties in Interest: All individuals, associations, and corporations that have interests of record in a dwelling and any that are in possession thereof.

Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and the approved plans and specifications of a development.

Person: Per NCGS 160D-102, an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Personal Services: This classification shall include barber/beauty shops, tanning salons, and similar uses.

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

Premises: Any building, lot, parcel, real estate, or land or portion thereof whether improved or unimproved, occupied or unoccupied.

Principal Building: A building wherein the primary use of the lot is conducted.

Principal Use: The main use of land or structures, as distinguished from a secondary or accessory use.

Property: Any real property, including, but not limited to, land, lot, or parcel of land, or any hereditament held by any owner.

Public Authority: Any officer who is in charge of any department or branch of the government of the town or of the state relating to health, fire, building requirements, or other activities concerning dwellings in the town.

Public Dedication: Land offered or dedicated to the public (open space, park land, etc.) for the public's use.

Public Sewage Disposal System: A system serving two (2) or more dwellings or commercial units and approved by the town, Carteret County Health Department, Department of Environment and Natural Resources, and/or other appropriate governmental agencies.

Public Utility Building/Use: Any building or use connected with a public utility which is defined as a business organization, such as an electric, phone, or water company, which performs a public service and is subject to special governmental regulation.

Quasi-Judicial Decision: A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. This term includes, but is not limited to, decisions involving variances and appeals of administrative determinations. Every quasi-judicial decision requires an evidentiary hearing.

Recreation, Passive: A leisure activity which occurs outdoors and is conducted with minimal impact to the natural environment. Examples include: walking trails, picnic areas, etc.

Recreation Use, Indoor: Uses or structures for active recreation including gymnasiums, health/fitness centers, indoor tracks, indoor ball courts, etc. This definition includes both non-profit and for-profit organizations.

Recreation Use, Outdoor: Parks and other open space used for active or passive recreation such as ballfields, playgrounds, trails, pools, boat ramps, tennis courts, golf courses, outdoor classroom and associated customary accessory uses. This definition includes both non-profit and for-profit operations.

Recreation Use, Governmental: Land or facilities owned, operated and managed by governmental agencies for public indoor or outdoor recreation use.

Recreational Vehicle: A vehicle which is:

- (A) Built on a single chassis;
- (B) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (C) Designed to be self-propelled or permanently towable by a light duty truck; and
- (D) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recycling Center: A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Recycling Plant: A facility that is not a junkyard and in which recoverable resources, such as newspaper, magazines, books and other paper products, glass, metal cans, and other products are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production.

Repair: The replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building or that would affect or change required existing facilities, a vital element of an elevator, plumbing, gas piping, wiring, or heating installations, or that would be in violation of a provision of law or ordinance. The term "repair" or "repairs" shall not apply to any change in construction.

Required: Required by some provision of this Ordinance.

Reservation: An obligation to keep property free from development for a stated period of time or indefinitely.

Residential Occupancy: Buildings in which families or households live or in which sleeping accommodations are provided and all dormitories shall be classified as "residential occupancy."

Such buildings include, among others, the following: dwellings, multifamily dwellings, and lodging houses.

Restaurant: An establishment designed, in whole or in part, to cater to or accommodate the consumption of food and/or beverage on premises.

Restaurant, Drive-In: An establishment designed, in whole or in part, to cater to or accommodate the consumption of food and/or beverages in automobiles on or off the premises.

Retail and Wholesaling, Indoor: An establishment which sells items at retail or wholesale wholly within an enclosed building.

Retaining Wall: A manmade structure designed to prevent the lateral displacement of soil, rock, fill, or other similar material. This definition shall not include bulkheads.

Rooftop Structures: An enclosed structure on or above the roof of any part of a building, including rooftop structures as defined in the North Carolina Building Code (i.e. stairwells, elevator shafts, etc.).

Roominghouse: Any dwelling, or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or 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: Combustible and noncombustible waste materials except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal mineral matter, glass, crockery, and dust.

Salvage Yard: Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including, but not limited to, vehicles, appliances and related machinery.

Satellite Dish Antenna: A device incorporating a reflective surface and is in the shape of a shallow dish or cone. Such device is used to transmit and/or receive radio or electromagnetic waves from satellites. Generally considered an accessory use.

School, Private: An organization which provides education which is not under the control of the Carteret County Board of Education, serving grades kindergarten through 12.

School, Public: An organization which provides education which is under the control of the Carteret County Board of Education, serving grades kindergarten through 12.

Seating Capacity: The actual seating capacity of an area based upon the number of seats or one (1) seat per eighteen (18) inches of bench or pew length.

Self-Service Storage Facility: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

Setback Line: A line which runs parallel to a property line on the front, rear, or side of a lot set according to the zoning district regulations, which delineates the area upon which a structure may be built and maintained.

Shopping Center: A grouping of retail business and service uses on a site with common ingress/egress points from a public right-of-way and common off-street parking and loading facilities provided on the property.

Shrub: A woody plant or bush of relatively low height (two (2) to six (6) feet) distinguished from a tree by having numerous stems rather than having one (1) or more well-defined trunks at maturity.

SIC: Standard industrial classification

Sight Triangle: The horizontal and vertical areas at the intersections of streets and/or driveways which must remain unobstructed in order to ensure that drivers can see traffic and pedestrians around the corner of intersections, street entrances, or driveways.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, structures, designs, trade names, or trademarks by which anything is made known such as are used to designate an individual, firm, an association, a corporation, a profession, a business, or a commodity or product, which are used to attract attention.

Sign Area: The entire area within a single continuous rectangle enclosing the extreme limits of such sign where writing, representation, emblem, or other display together with any material or color forming an integral part of the background may be placed; and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Sign area shall be the same as sign face.

Sign, Banner: A non-permanent strip of cloth or other material on which a sign is drawn, written, painted, or otherwise applied.

Sign, Canopy: A sign painted or otherwise applied to a permanent decorative porch or walkway cover other than an awning, which is attached to a building or supported by columns, extending to the ground. This definition shall include signs on gas station and convenience store canopies.

Sign, Feather Flag: A vertical sign that contains a pole driven into the ground for support or which is supported by means of an individual stand and which includes a vertically-elongated attached pennant. This definition includes banner flag, swooper flag, flutter flag, blade flag, sail flag, bow flag, teardrop flag, tall flag, and quill flag signs. This definition does not include pole banner signs.

Sign, Fence Screening: A sign printed or otherwise applied to a fence or gate wrap made of mesh fabric which is installed on a permitted fence and which is used to provide privacy, enhance safety, or provide wind protection at a construction site.

Sign, Flag: A flag sign which is not classified as a governmental flag sign.

Sign, Freestanding: A sign that is not attached to a building and is permanently attached to the ground by one (1) or more supports.

Sign, Governmental Flag: For the purposes of this Ordinance, a governmental flag is defined as the flag of the United States of America, the flag of nations recognized by the United States of America, the flag of the State of North Carolina, the flag of any state or territory of the United States, the flag of a political subdivision of any state or territory of the United States, or a governmentally affiliated military flag (e.g. Marine, Air Force, Navy, Army, Coast Guard, POW/MIA, etc.).

Sign Height: The height of a sign shall be the vertical distance as measured from the normal grade to the highest point of the sign. Any berming or filling or excavating solely for the purpose of locating the sign shall be computed as a part of the sign height.

Sign, Illegal: Any sign which was not lawfully installed or modified.

Sign, Inflatable Display: A display, that is gas or air-filled, and which is used to attract attention.

Sign, Legal: Any sign that is not an illegal sign.

Sign, Menu Board: Signage attached or otherwise applied to the following types of menu boards:

- (1) Drive-through menu board used solely for drive-through service at a business where customers remain seated in a vehicle occupying a drive-through service lane to the point of a drive-through service window or other service area of a business;
- (2) Preview menu board which abuts a drive-through service lane and precedes the drive-through menu board for the purpose of expediting ordering of products and/or services from the drive-through menu; and
- (3) Parking stall menu board located immediately adjacent to a vehicle parking stall on the premises of a business utilizing drive-in parking stalls where customers remain seated in a vehicle.

Sign, Noncommercial: A sign which carries no message, statement, or expression related to commercial interests.

Sign, Nonconforming: Any sign which was lawfully erected and maintained in compliance with applicable code provisions, but which no longer complies with all of the provisions of this Ordinance due to the enactment of a subsequent amendment to this Ordinance.

Sign, Obsolete: A sign related to or identifying a business which is no longer open or an activity or event which has already transpired.

Sign, Outdoor Advertising: Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended, or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled interstate or primary system, whether the same be permanent or a portable installation, and for which an outdoor advertising permit has been issued by the North Carolina Department of Transportation.

Sign, Pedestrian Wayfinding: A sign which facilitates pedestrian wayfinding and is part of an approved Town wayfinding program.

Sign, Pole Banner: A sign which is vertically affixed at two ends to a light pole by way of pole banner brackets. This definition is not intended to include feather flag signs.

Sign, Projecting: A sign forming an angle with a building, which extends beyond the exterior wall of the building and is attached to and supported by the building.

Sign, Roof: Any sign attached to the roof of a building.

Sign, Suspended: A sign that is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane.

Sign, Temporary: A sign which is intended for temporary use and which is not permanently mounted or permanently affixed to any structure nor permanently installed in the ground.

Sign, Tri-View: A sign on which each face intermittently rotates with a maximum of three (3) faces per side.

Sign, Wall: Any sign, other than a projecting sign, awning sign, or canopy sign, which is attached to or painted on the wall of a building.

Sign, Window: Any sign that is attached to, painted on, or etched into a window.

Site-Specific Vesting Plan: A plan submitted to the Town, describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, in which the applicant requests vesting described in NCGS 160D-108.1.

Special Use: A use that would not be appropriate generally as a right without restrictions throughout a zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, or the general welfare.

Stable, Private: A private stable houses horses, mules and ponies that are for the enjoyment of the property owner and horses are owned by the property owner.

Stable, Public: A public stable houses horses, mules and ponies that are for the enjoyment of the property owner and the animals are available for hire, lease and/or riding lessons and stalls may be rented.

Stairway: One (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one (1) story to another in a building or structure.

Storage Containers: A standardized reusable shipping container, with or without wheels, used in the transportation of freight and capable of being mounted and moved on a railcar, or mounted on a chassis for movement by truck trailer or loaded on a ship.

Story: That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

Street: A dedicated right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Street, Local: A local street is any link not part of a higher order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

Street, Local Residential: Cul-de-sacs, loop streets, and streets less than two thousand five hundred (2,500) feet in length, or streets less than one (1) mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than one hundred (100) dwellings.

Street, Major Thoroughfare: Major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

Street, Minor Residential: A street serving primarily the lots or units in a subdivision, planned development, or apartment complex. No thoroughfares, highways, or state roads nor any street carrying or anticipated to carry volume of traffic which is found by the Zoning Administrator to be of such magnitude that to allow vehicles to back on to it would endanger life or property shall be considered a minor street.

Street, Minor Thoroughfare: A street which performs the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. It may supplement the major thoroughfare system by facilitating minor through traffic movement and may also serve abutting property.

Street, Residential Collector: 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 one hundred (100) to four hundred (400) dwelling units.

Structure: Anything constructed, built, or erected with a fixed location on or in the ground or attached to something having more or less a fixed location on or in the ground. Among other things, structures include buildings, manufactured homes, garages, carports, porches, decks, signs, etc. For floodplain management and flood insurance purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank that is principally above ground.

Subdivider: Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as defined in this Ordinance.

Subdivision: All divisions of a tract or parcel of land into two (2) or more lots or building sites, or other divisions when any one (1) or more of those divisions is created 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 change in existing streets

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

Temporary Housing: Any tent, manufactured home, or other structure used for human shelter that is designed to be transportable and that is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

Towing/Recovery Storage Yard: An establishment/location offering the service of short-term storage (ninety (90) days or less) of towed/recovered/wrecked vehicles and which does not include dismantling, repair or service of the vehicles on the same site. Towing/recovery storage yard shall not include storage of junked vehicles or in any way operate as a "junkyard" except to the extent of processing of a vehicle as an "unclaimed vehicle" under NCGS 20-77.

Townhouse Development: A townhouse development shall consist of one or more residential structures comprised of three (3) or more attached single-family residences, where land directly underneath each unit is sold with that unit.

Townhouse Duplex: A residential structure constructed on a duplex lot, comprised of two (2) attached single-family residences where land directly underneath each unit is sold with that unit and the remainder of the land is owned as common area.

Townhouse Lot: The area, when combined with one (1) attached single-family residence, which is sold fee simple within a townhouse development.

Townhouse Plat: The entire development area as shown on an approved preliminary plat.

Trailer: Any vehicle, prefabricated vehicle, or prefabricated enclosure being or resembling a trailer, whether designed for a special installation or not, house car, camp car, house trailer, home trailer, home car, or any portable or movable vehicle on or off wheels, skids, rollers, blocks, brick, wood, steel, plastic, or aluminum, either self-propelled or propelled by any other means whatsoever, which is used or designed to be used for residential, living, sleeping, permanent office, commercial, or utility purposes, but not including those vehicles primarily designed for the transportation of goods.

Trailer, Overnight Camping: A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer and truck camper.

Unit-Ownership (Condominium) Development: A project of two (2) or more units in one (1) or more buildings designed and constructed for unit-ownership submitted under Section 3 of the North Carolina Unit-Ownership Act and other applicable regulations.

Value Added Operations: The enhancement added to a product or service before product is shipped.

Variance: A variance is a quasi-judicial decision that may be granted only by the Board of Adjustment when unnecessary hardship would result from carrying out the strict letter of a zoning regulation. A variance may only be granted if all requirements in NCGS 160D-705(d) are met.

Ventilation: The process of supplying and removing air by natural or mechanical means to or from any space.

Wall: Any permanent architectural extension of a wall, including parapets, even if such extension projects beyond or above the enclosed portions of the building. For purposes of calculating sign area, the window area shall not be considered part of the wall.

Warehouse: A building used primarily for the storage of goods and materials.

Warehousing and Distribution: A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.

Wrecked: That which has outward manifestation or appearance of damage to parts and contents which are essential to operation.

Yard: A required open space unoccupied and unobstructed by any structure or portion of a structure from ground to sky.

Yard, Front: A yard extending across the front of a lot from side lot line to side lot line and lying between the abutting street right-of-way line and the front building setback line.

Yard, Rear: A yard extending across the rear of the lot from side lot line to side lot line and lying between the rear property line and the rear building setback line.

Yard, Side: A yard extending along either side of a lot from front setback line to the rear building setback line.

Yard Sale: All general sales, open to the public, conducted from or on a residential premises in any district for the purpose of disposing of personal household property. The term "yard sale" shall include all such herein described sales, whether or not they are garage, lawn, yard, attic, porch, room, backyard, patio, or rummage sales.

Zoning Vested Right: A right pursuant to NCGS 160D-108 to undertake and complete the development and use of property under the terms and conditions of a development approval.

§ 154.016.2 CONFLICTS OF INTEREST STANDARDS.

- A. *Familial relationship.* For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.
- B. *Governing board and appointed boards.* Members of these boards shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- C. *Administrative staff.* No staff member shall make a final decision on an administrative decision required by NCGS 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person.

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

- D. *Quasi-judicial decisions.* A member of any board exercising quasi-judicial functions pursuant to NCGS 160D shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- E. *Resolution of objection.* If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

§ 154.016.3 SITE-SPECIFIC VESTING PLAN.

A. *Description.*

1. An approved site-specific vesting plan prevents any action by the Town of Bogue that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan and in accordance with applicable limitations and exceptions.
2. The following development approvals qualify as a site-specific vesting plan:
 - a. Special use permit.
3. A vested right established in accordance with this Ordinance shall run for a period of two (2) years from the effective date of the approval of the underlying development application.

B. *Process.*

1. Each site-specific vesting plan shall include the information required by the Town for the underlying type of development plan.
2. The applicant must indicate at the time of application that a vested right under NCGS 160D-108.1 is being sought.
3. Each site-specific vesting plan shall provide the notice and hearing required for the underlying type of development plan.
4. Each site plan or other document referring to a site-specific vesting plan must contain the following notation: "Approval of this plan establishes a zoning vested right under NCGS 160D-108.1. Unless terminated at an earlier date, the zoning vested right shall be valid until _____."

5. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and Town in the same manner as required for the underlying type of development plan.
6. Upon following the same process as required for the original approval, the Zoning Board of Adjustment may extend the vesting of a site-specific development plan up to three (3) years (with the total length of vesting not to exceed five [5] years) upon finding all of the following:
 - a. The permit has not yet expired;
 - b. Conditions have not changed so substantially as to warrant a new application; and
 - c. The extension is warranted in light of all other relevant circumstances - including, but not limited to the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.

C. *Limitations.*

1. Nothing in this Ordinance shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this Ordinance. The development remains subject to subsequent review and approvals to ensure compliance with the terms and conditions of the original approval as provided for in the original approval or by applicable regulations.
2. The establishment of a vested right pursuant to this Ordinance shall not preclude the application of overlay zoning that adds additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and apply to the entire planning and development jurisdiction of the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.
3. New and amended zoning regulations that would be applicable to certain property but for the establishment of a vested right shall become effective upon the expiration or termination of the vested rights period provided for in this Ordinance.
4. Upon issuance of a building permit, the expiration provisions of NCGS 160D-1111 and 160D-1115 apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.
5. Any vested rights for a site-specific vesting plan are subject to the exceptions specified at NCGS 160D-108.1.

§ 154.016.4 PERMIT CHOICE AND APPLICATION COMPLETENESS.

- A. *Permit choice.* An applicant for a development approval (development permit) shall have the right to permit choice as detailed in NCGS 160D-108(b) and 143-755 once a complete application is submitted to Town staff. Town staff shall determine if an application is complete.
- B. *Application completeness.* An application is determined to be complete if the following are provided:
 - 1. Any relevant information necessary to determine if a proposed development and/or use meets the requirements of this Ordinance. This could include, but is not limited to, property identification (valid street address and/or property identification number), a clear description of the proposed development and/or use, and specification of relevant dimensions.
 - 2. A dated signature by the applicant.
 - 3. Payment of any required application fee.

ADMINISTRATION

§ 154.017 ZONING ADMINISTRATION.

- A. The Town Council shall appoint, designate or contract for a designation, the Zoning Administrator is authorized to administer and enforce the provisions of this chapter. More specifically, for the purposes of this chapter, it will be the duty of the Zoning Administrator (also known as Zoning Enforcement Officer) to enforce and administer the provisions of this chapter. Any appeal from an administrative decision of the Zoning Enforcement Officer may be taken to the Zoning Board of Adjustment established pursuant to this chapter in § 154.027 *et seq.*
- B. *Inspections.* The Zoning Administrator may conduct inspections in conformance with NCGS 160D-403(e). Any inspection must occur during reasonable hours. The Zoning Administrator must present credentials. In order to inspect an area not open to the public, the Zoning Administrator must either have appropriate consent or obtain an administrative search warrant.
- C. *Revocation.* Revocation of any development approval shall follow the same process used for their approval.
- D. Any development approval shall be provided in writing.
- E. Any development approval shall run with the land per NCGS 160D-104.

- F. An application for a development approval can only be made by a property owner, person with a contract to purchase the property in question, or an authorized agent.
- G. *Determinations.* Any notice of determination, such as a notice of violation, must be provided in writing to the applicant and property owner. The notice must be sent by personal delivery, electronic mail, or first-class mail.

§ 154.018 ENFORCEMENT METHODS.

§ 154.018.001 Persons Liable

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

§ 154.018.002 Procedures Upon Discovery of Violations

- A. If the Zoning Enforcement Officer finds that any provision of this Ordinance is being violated, he/she shall send a written notice to the person responsible for such violation, the landowner, and holder of the development approval (if different), indicating the nature of the violation and ordering the action necessary to correct it.
- B. Delivery shall be by first-class mail, electronic delivery, or personal delivery.
- C. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

§ 154.018.003 Penalties and Remedies for Violations

- A. Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits, shall constitute a misdemeanor, punishable by a fine of up to fifty dollars (\$50.00), or a maximum thirty (30) days imprisonment, or both.
- B. If the offender fails to pay this penalty within thirty (30) days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation and did not take an appeal to the Board of Adjustment within the prescribed time.

- C. Each day that any violation continues after notification by the Zoning Enforcement Officer that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
- D. This Ordinance may also be enforced by any appropriate equitable action as allowed within the NCGS.
- E. All enforcement actions, including fines, shall be paused during the appeal process.

§ 154.018.004 Permit Revocation

- A. A zoning or special use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this Article) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit-issuing Board.
- B. Before a special use permit may be revoked, all of the notice and hearing and other requirements shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
- C. Before a zoning permit may be revoked, the Zoning Enforcement Officer shall inform the recipient of the alleged reasons for the revocation and of his/her right to appeal the administrative decision in accordance with this Ordinance. If the permit is revoked, the Zoning Enforcement Officer shall provide to the permittee a written statement of the decision and the reasons therefor.
- D. No person may continue to make use of land or buildings in the manner authorized by any zoning or special use permit after such permit has been revoked in accordance with this Ordinance.

§ 154.018.005 Judicial Review

- A. Every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Carteret County by proceedings in the nature of certiorari.
- B. The petition for the writ of certiorari must be filed with the Carteret County Clerk of Court within thirty (30) days after the Board's decision.
- C. A copy of the writ of certiorari shall be served upon the Town of Bogue.

§ 154.019 ZONING PERMITS.

- A. It is illegal for any person to begin construction of, or change the use of, a structure or any part of a structure without obtaining a zoning permit from the Zoning Enforcement Officer.

- B. The Zoning Enforcement Officer will not issue a zoning permit unless the plot plans, zoning specifications and intended use of the structure conform to the requirements of this chapter. The application for a zoning permit must be accompanied by information sufficient to allow the Zoning Enforcement Officer to act on the request.
- C. In cases where the applicant for a zoning permit appeals an administrative decision of the Zoning Enforcement Officer or applies for a variance from the provisions of this chapter, the Zoning Enforcement Officer will forward all information pertaining to the application to the Zoning Board of Adjustment.
- D. Any zoning permit issued in accordance with this section will lapse and become invalid unless the work for which it was issued is started within twelve (12) months of the date of issue or if the work authorized by it is suspended or abandoned for twenty-four (24) months.
- E. A building permit expires six (6) months after issuance if no work has commenced. If work has commenced, a building permit expires twelve (12) months after work is discontinued.

§ 154.020 APPLICATION FOR ZONING PERMIT.

The following information shall be required when making application for a zoning permit:

- A. Plot plan showing the actual dimensions of the lot to be developed, the plot plan being drawing to scale when the development is taking place in all zoning districts;
- B. Location of existing and proposed buildings, including setbacks;
- C. Size of proposed building and, interior floor plans, when necessary for determination to be made under other sections of this chapter;
- D. Number and location of parking spaces for commercial structure, interior floor plans, when necessary for determination to be made under other sections of this chapter;
- E. Number and location of parking spaces for commercial structure; and
- F. Location and dimensions of proposed and existing signs.

AMENDMENTS

§ 154.021 AMENDMENT RESPONSIBILITY.

- A. The Town Council, on its own motion, or by petition may amend, supplement, change or repeal the zoning district boundaries or regulations established by this chapter. Any like

amendment will be adopted only after public notice and legislative hearing as required by NCGS 160D-601 et seq.

- B. Third-party down-zonings are prohibited per NCGS 160D-601(d). Down-zonings are allowed if initiated by the Town or if written consent of all affected property owners has been obtained.
- C. Any amendment to these regulations, including the Zoning Map, is a legislative decision and shall be adopted by ordinance.

§ 154.022 PETITION FOR AMENDMENT.

- A. Petitions for an amendment to this chapter or for the rezoning of property must be filed with the Zoning Administrator. An official application form, entitled Petition for Change of Zoning in Bogue (Land Use Application Form) shall be obtained and returned to the Zoning Administration no later than 21 days prior to the date of the Bogue Planning Board is to consider the petition. A filing fee shall accompany the petition and the Town Council from time to time is authorized to adopt a fee schedule.

§ 154.023 WITHDRAWAL/SUSPENSION OF PETITIONS.

- A. Petitions for rezoning of property or amendment to this chapter may be withdrawn or suspended by the petitioner at any time up to and including ten days prior to the hearing date. After that time, requests to withdraw or suspend a petition must be filed with the Zoning Administrator and, on the day of the hearing, the Council will decide if the withdrawal/suspension will be allowed. If the request for a suspension is granted, the petitioner shall incur all costs associated with the re-advertisement of the public hearing. If a petition is withdrawn, any reapplication shall be treated as a new petition and all required fees shall be paid.
- B. The petitioner will not be allowed to amend or change the petition after the Town Council authorizes a public hearing to hear the request.

§ 154.024 LEGISLATIVE (PUBLIC) HEARING.

- A. No amendment of this chapter (including rezoning of property) may be adopted until after a legislative (public) hearing has been held on the petition. A notice of the hearing will be placed in a local Carteret County newspaper once a week for two successive weeks. The notice will appear for the first time no less than 10 nor more than 25 days prior to the hearing date.
- B. *Additional notice requirements for map amendment (rezoning).*
 - 1. *Notice posted on site.* A notice of a request for a legislative hearing for a zoning change shall be posted on the property not less than ten (10) days nor more than twenty-

five (25) days prior to the legislative hearing stating the nature of the requested change and the time and place of the public hearing.

2. *Mailed notice.* A notice of a legislative hearing for a zoning change shall be mailed to all owners of affected properties and owners of abutting properties. Abutting properties include properties separated only by street, railroad, or other transportation corridor. The notice must be mailed at least ten (10) but not more than twenty-five (25) days prior to the legislative hearing.

C. *Notice to Marine Corps Air Station (MCAS) Cherry Point.*

1. This notice is required for any proposed map amendment (rezoning) or text amendment that would affect permitted uses of land within five (5) miles or less of Marine Corps Auxiliary Landing Field Bogue.

2. The Town shall provide written notice of the proposed changes to the commander of MCAS Cherry Point.

3. The written notice must be sent by certified mail, return receipt requested, not less than ten (10) days nor more than twenty-five (25) days prior to the legislative hearing.

4. If the commander provides comments or analysis regarding the compatibility of the proposed amendment with military operations at the base, the Town Council shall take the comments and analysis into consideration before making a final decision.

D. The total amount of time allowed for the supporters or the opponents of a petition to provide verbal comments shall be determined at the hearing. The presiding officer of the hearing will decide whether to grant all or part of any request for additional time.

E. In cases involving controversial rezoning matters and a large number of persons wishing to speak at the public hearing in favor of or against a request, the Town Council reserves the right to require those persons to sign up in advance of the public hearing in order to facilitate and organize the speakers. Persons who do not register to speak in advance shall be allowed that right at the public hearing. If a requirement for preregistration is necessary, the advertised public hearing notice shall clearly indicate this requirement.

§ 154.025 RECOMMENDATIONS OF THE PLANNING BOARD.

A. No proposal to amend this chapter or rezone property will be approved unless it is first submitted to the Planning Board for its recommendations pursuant to § 154.022. The Planning Board must make a recommendation to the Town Council within 30 days after the petition has been referred to the Planning Board. If the Planning Board does not render a decision within that period, the petition will be considered the same as a favorable recommendation.

B. The Planning Board recommendation shall be in writing.

- C. The Town Council shall not serve as the Planning Board in this capacity per NCGS 160D-604(e).
- D. *Plan consistency statement requirement.* As part of the written recommendation, the Planning Board must state whether the proposed amendment is consistent with any land use plan, comprehensive plan, or any other plan adopted under NCGS 160D-501 by the Town.

§ 154.026 DECISION BY THE TOWN COUNCIL.

- A. An amendment to this chapter is adopted on first reading by simple majority.
- B. *Plan consistency statement requirement.* When deciding on an amendment to this chapter, the Town Council shall approve a statement of whether the proposed amendment is consistent with any land use plan, comprehensive plan, or any other plan adopted under NCGS 160D-501 by the Town.
- C. *Additional requirement for map amendment (rezoning, zoning change).* Included along with the plan consistency statement above, the Town Council shall specify reasonableness for map amendments that can include, but are not limited, to the following factors:
 - (1) Size, physical conditions, and other attributes of the area proposed to be rezoned.
 - (2) Benefits and detriments to landowners, neighbors, and larger community.
 - (3) Relationship between the current actual and permissible development on the property and adjoining areas and development that would be permissible under the proposed amendment.
 - (4) Why the action taken is in the public interest.
 - (5) Any changed conditions warranting the amendment.
- D. *Effect on future land use map.* If the Town Council adopts a zoning map amendment that is also deemed inconsistent with an adopted plan, then the future land use map in that adopted plan is also amended. The Town shall not require a separate application or fee for this plan amendment.
- E. *CAMA plan.* An amendment to the Town's future land use map in a CAMA land use plan is not considered effective until completion of the CAMA plan amendment process.
- F. *Effect of denial.* A petition for amendment to this chapter or for the rezoning of property that has been denied in whole or in part or has been approved to a higher classification (as defined in § 154.008) than the one originally requested may not be resubmitted within six months of the date of action on the original request. However, the Town Council may choose to allow a reapplication if, after a report from the Planning Board, it determines that there have been substantial changes in conditions or circumstances, which may relate to the request.

ZONING BOARD OF ADJUSTMENT**§ 154.027 ORGANIZATION.**

The Town Council has established a combined Planning Board/Board of Adjustment.

§ 154.028 RULES OF PROCEDURE.

- A. The Chairperson may administer oaths and subpoena witnesses.
- B. The Board shall record the minutes of their proceedings.
- C. Each Board member shall take an oath of office before starting their duties.
- D. If the Board chooses to adopt rules of procedure, those rules shall be maintained by the Town Clerk and publicly available on the Town's website.

§ 154.029 DUTIES OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment is assigned a certain number of specific duties by this chapter. Those duties are listed below.

- A. *Interpretation of this chapter.* The Board of Adjustment is responsible for interpreting the provisions of this chapter if there is a question about the meaning or application of a provision. Once the Board has made an interpretation on an issue, the Zoning Enforcement Officer will consistently use that interpretation in the administration of this chapter. The Board may also ask that this chapter be amended to clarify a problem with this chapter that has come to the Board's attention.
- B. *Administrative review.* The Board of Adjustment will hear and decide appeals where it is alleged there is an error in any order, requirement, determination or any other administrative decision made by the Zoning Enforcement Officer. Any person with legal standing may file an appeal within 30 days of receiving written notice of a decision by the Zoning Enforcement Officer. If a notice of determination is sent by first-class mail, it is presumed to have been received on the third business day after mailing. The Zoning Enforcement Officer who made the decision being appealed must appear as a witness. Their successor shall appear instead if the person who made the decision is no longer employed.
- C. *Variance of the chapter requirements.* The Board of Adjustment will hear and decide appeals and requests for variances from the requirements of this chapter which relate to the establishment or extension of structures.
 - 1. Before a variance request may be granted, the Board must find:

- a. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - d. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
2. The Board may not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension of a nonconforming use or would change the district boundary or zoning classification of the property in question.
- D. *Issuance of special use permits.* The Board of Adjustment is responsible for issuing special use permits for uses which are special uses in the Table of Permitted and Special Uses. Before a special use permit may be granted, the Board must find:
1. That the proposed use will not materially endanger the public health or safety if located where proposed and if developed according to the plan as submitted and approved;
 2. That the public health, safety and welfare have been assured and substantial justice done; and/or
 3. The proposed use will meet all requirements specified in this chapter.
 4. That the location and character of the use, if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town of Bogue.

The Board of Adjustment may impose reasonable and appropriate conditions upon a special use permit. Conditions may not be imposed where the Town does not have statutory authority. Before granting a special use permit, the Board of Adjustment shall obtain the applicant's consent to any conditions in writing.

§ 154.030 APPEALS AND HEARINGS.

After notice of appeal, variance or special use is received, the Board of Adjustment will hold an evidentiary hearing within 30 days from the filing of the notice. All administrative papers and other information relating to an appeal, special use permit or variance must be submitted to the Zoning Enforcement Officer by the appellant. The Board will give mailed notice of the time, place and subject of its hearings to the person(s) making the request as well as the property owner, if different. The Town shall give mailed notice to the owners of abutting properties. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. There must also be a notice posted on site within this period. Proof of notification shall be required in advance of the Board of Adjustment meeting.

§ 154.031 ACTIONS OF THE BOARD.

- A. The Board of Adjustment shall follow statutory procedures specified in NCGS 160D-406 and 160D-705 for all zoning quasi-judicial decisions.
- B. Any quasi-judicial decision by the Board shall be preceded by an evidentiary hearing used to gather competent, material, and substantial evidence.
- C. Any witness at an evidentiary hearing must testify under oath.
- D. Any decision of the Board of Adjustment will state the reasons and the findings of fact and conclusions of law made by the Board to reach its decision. The Board of Adjustment shall inform the parties involved of its decision and the reasons and findings of fact in writing.
- E. The Board chair at an evidentiary hearing shall rule on objections to the inclusion or exclusion of administrative material.
- F. The applicant, Town, and any person with standing to appeal a quasi-judicial decision under NCGS 160D-1402(c) shall have to right to participate as a party in an evidentiary hearing.
- G. The concurring vote of four-fifths of the members of the Board will be required for granting a variance request. A majority vote shall be required to reverse any administrative decision, decide in favor of the person(s) making an appeal, grant a special use permit, or decide any other quasi-judicial matter.

§ 154.032 REHEARING.

The Board of Adjustment will refuse to hear an appeal or application for a variance which has been previously denied if it finds that there have been no substantial changes in the conditions, circumstances or evidence relating to the matter.

§ 154.033 FEES.

Petitions for appeals to be considered by the Board of Adjustment must be filed with the Zoning Administrator and must be in accordance with the Town Fee Schedule. Fees charged through this Ordinance shall be used solely for support, administration, and enforcement of this Ordinance or other Town development regulations per NCGS 160D-402(d).

§ 154.034 APPEALS.

Any person or persons with legal standing may appeal the decision of the Board of Adjustment to the Superior Court of North Carolina within 30 days after a written and signed copy of the decision is filed in the Planning Department. Any person or persons with legal standing may submit a written request for the decision at the time of the hearing.

NONCONFORMITIES**§ 154.035 INTENT.**

It is the intent of this chapter to regulate lots, structures, sites and uses of land which were conforming at the time of their creation or construction but, due to changes in district regulations, no longer adhere to the requirements of this chapter. It is the intent of this chapter to allow nonconformities to continue until they are removed but not to encourage their survival. It is further the intent of this chapter that nonconforming uses and nonconforming portions of structures shall not be enlarged, expanded or extended.

§ 154.036 NONCONFORMING LOTS.

A nonconforming lot is a lot which does not conform to the size requirements of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated in this Ordinance.

A nonconforming vacant lot may be used for any of the uses permitted by this Ordinance in the district in which it is located if the use of the lot meets the following standards:

- A. The minimum requirements for front, side and rear yards, height of structures, and unobstructed open space for the particular district must be met;
- B. Two-family and multifamily dwellings must meet the minimum lot standards;
- C. The lot in question does not abut a lot which could be combined with it to make it conforming which is under common ownership;
- D. A legally recorded plat or deed shall be required prior to obtaining any building permits.

§ 154.037 NONCONFORMING STRUCTURES.

A nonconforming structure is a structure which does not meet the minimum requirements for area, front, side or rear yard setbacks, height requirements or other provisions for the district in which it is located. A nonconforming structure may be improved or expanded in accordance with the following standards:

- A. Any improvement or expansion of any nonconforming structure on sides meeting minimum setbacks must also comply with the minimum setback requirements of the Ordinance for front, side and rear yard for the district in which the lot is located. Improvements or expansion of any nonconforming structure on sides not meeting minimum setbacks may be allowed provided, the addition encroaches no closer to the property line than the existing (nonconforming) outside wall of the original structure. Adding additional space on a second floor within existing exterior dimensions is not considered as increasing the nonconformity even if the exterior dimensions do not meet the current setback requirements.

§ 154.038 RECONSTRUCTION, RESTORATION, AND REPLACEMENT OF DAMAGED NONCONFORMING STRUCTURES.

No special use permit required from the Board of Adjustment. The rebuilding, reconstruction, restoration, or replacement of any zoning nonconforming structure which was damaged or partially destroyed by: the exercise of eminent domain; man-caused acts such as fire, accident, explosion; or flood, lightning, wind, or other calamity or natural act, does not require a special use permit if all of the following are met:

- A. The cost of rebuilding, reconstructing, or restoring is less than fifty (50) percent of the replacement cost of the original nonconformity as determined at the time such damage or destruction occurred.
- B. The nature and degree of the nonconforming use or structure is not expanded, changed, or increased from that which existed prior to the damage or destruction.
- C. A completed application for a building permit to substantially rebuild, reconstruct, or restore the nonconformity is submitted to the building inspections department within one (1) year of the date the nonconformity was damaged or destroyed.

§ 154.039 SPECIAL USE PERMIT REQUIRED FROM BOARD OF ADJUSTMENT.

The rebuilding, reconstruction, or restoration of any nonconforming structure which was damaged or partially destroyed by: the exercise of eminent domain; man-made acts such as fire, accident, explosion; or flood, lightning, wind, or other calamity or natural act, requires a special use permit from the Board of Adjustment if one (1) or more of the following apply.

- A. The cost of rebuilding, reconstructing, and restoring is fifty (50) percent or more of the replacement cost of the original nonconformity as determined at the time such damage or destruction occurred.
- B. A completed application for a building permit to substantially rebuild, reconstruct, or restore the nonconformity has not been submitted to the building inspection department within one (1) year of the occurrence of the damage or destruction.
- C. Permission may be granted for the restoration of a nonconforming structure if the Board of Adjustment finds from the evidence that the provisions of this ordinance are met.

§ 154.040 NONCONFORMING USES.

A nonconforming use is a use which existed prior to the adoption of this Ordinance or an amendment thereto, which would not be permitted by this Ordinance or an amendment thereto in the district in which it is located. This type of use may be continued subject to the following limitations:

- A. Maintenance and repairs which are necessary to keep a structure which houses a nonconforming use in a safe and sound condition must be carried out in a timely manner;
- B. Junk, scrap paper or metal, waste, discarded or salvaged material, including abandoned automobiles, shall not be considered a legal nonconforming use.

§ 154.041 RESUMPTION OF NONCONFORMING USES.

- A. Not more than one hundred eighty days has elapsed. Reusing or restarting a zoning nonconforming use which visibly ceased or was abandoned, discontinued, or unused for a continuous period of less than one hundred eighty (180) days is allowed, provided that the nature and degree of the nonconformity will not be changed or increased from that which existed before the nonconformity became visibly abandoned, discontinued, unused or unoccupied or ceased.
- B. More than one hundred eighty days has elapsed. Any nonconforming use which has been visibly discontinued, unused, abandoned or ceased for a continuous period of one hundred eighty (180) days or more is not allowed thereafter to resume or restart. If a site where the nonconforming use has being (been) actively offered for sale during the 180-day period and has not been sold, the Zoning Administrator may grant one (1) additional 180-day continuance from the date the nonconforming use was visibly abandoned, discontinued, became unused, unoccupied, or ceased provided the request for extension was made prior to the expiration of the initial 180-day period. The only use permitted thereafter is a use which will conform to the use regulations in the zoning district.

§ 154.042 EXPANSION OF NONCONFORMING USES.

- A. The expansion, extension, or alteration of a nonconforming use is permitted with a special use permit from the Board of Adjustment.
- B. Permission may be granted for the expansion, extension, or alteration of a nonconforming use if the Board of Adjustment finds from the evidence that the provisions of this ordinance are met.

§ 154.043 CHANGE OF NONCONFORMING USE.

- A. The change of an existing nonconforming use to another nonconforming use may be allowed by a special use permit issued by the Board of Adjustment, provided, however, that the new use will have no greater adverse effect on the surrounding property than the existing use.
- B. Once a nonconforming use of a structure has been changed to a conforming use, there shall not be a return to any nonconforming use.

§ 154.044 CHANGES IN ZONING.

Any structure or use which becomes nonconforming as a result of a change in a zoning classification or district boundary or by a change in the provisions in the Ordinance will be subject to the provisions of this section.

§ 154.045 NONCONFORMING SIGN AND SIGN STRUCTURES.

If a sign and/or sign structure exists that was legal at the time of its erection that would not be allowed under the terms of this chapter, the sign may continue, subject to the following provisions.

- A. When a site has exceeded the allowable sign area for that particular site, based on the allowable sign area for the property based on its current zoning classification, all signs present on the site shall be considered nonconforming. In addition, when a site contains any nonconforming signs, all signs on that site shall be considered nonconforming.
- B. A nonconforming sign shall not be moved or replaced except to bring the sign into conformity with this chapter. No additional signage shall be added to a site that has a nonconforming sign(s).
- C. If a sign and structure become physically unsafe, damaged, destroyed or unlawful due to lack of repairs and maintenance, where destruction or lack of repairs and maintenance exceeds 50% of the replacement cost, the sign shall be declared destroyed by the Building Inspector or other similar agent as requested and approved by the Town Council and shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of this chapter. Further, when needed repairs and maintenance exceed 50% of the replacement cost, it shall be declared destroyed by the Building Inspector or other

similar agent as requested and approved by the Town Council in accordance with § 2301.5 of the North Carolina State Building Code and shall not be replaced or repaired except in conformity with this chapter. Replacement of sign faces or painting of a sign shall not be included in the percentage figure.

- D. If a nonconforming sign is destroyed, it may not thereafter be repaired, reconstructed or replaced except in conformity with the provisions of this chapter. For the purpose of this section, a nonconforming sign is destroyed if damage to the sign exceeds 50% of replacement cost.
- E. No nonconforming sign shall be allowed to remain after the activity, business or use to which it relates has been discontinued for a period of 90 days.

SUPPLEMENTARY REGULATIONS

§ 154.046 SCREENING/BUFFERING.

- A. *General screening requirements.* Whenever screening is required, a minimum ten-foot wide vegetation buffer must be provided to materially screen the uses within the subject property from the view of abutting properties. The vegetative buffer shall contain evergreen shrubs spaced not more than five feet apart, and not less than one row of dense shrubs planted at an initial height of at least three feet and shall be of a type that can be expected to be five feet or more in height after three growing seasons. The vegetative buffer shall be maintained continuously in a healthy state by the property owner(s). When a vegetative buffer is deemed inappropriate due to limited lot area, the Zoning Enforcement Officer may allow either a durable masonry wall or wooden fence designed to be compatible with the character of adjacent properties. Within residential districts, walls and fences must be at least five feet in height but not greater than ten feet in height, measured from the ground along the common lot line boundaries, walls and fences must be at least five feet high but not greater than eight feet high. Walls and fences must be constructed and maintained in safe and sound condition.
- B. *Screening and outdoor storage.* Outdoor storage of any material, stocks or equipment, accessory to a principal use on any lot within any district other than a residential district must be screened from any abutting lots in residential districts in accordance with the requirements of division (A) above and other pertinent provisions of this chapter. The screening may be located anywhere on the property, subject to other pertinent provisions of this chapter, and provided that the open storage area is effectively screened as specified above.
- C. *Screening junkyards and salvage yards.* Junkyards and salvage yards must be screened from public view from any public street and from any abutting lots in accordance with the requirements of division (A) above and other pertinent provisions of this chapter. The

screening may be located anywhere on the property, subject to other pertinent provisions of this chapter and provided that the junkyard or salvage yard is effectively screened as specified above.

- D. *Screening and zoning district boundaries.* In all cases where a residential district is bounded by any other zoning district, screening shall be required in accordance with the requirements of division (A) above and other pertinent provisions of this chapter when nonresidential property is developed. The screening shall be located along the perimeter of the property which is not zoned residentially.
- E. *Waiver of screening requirements when screening is already provided.* There may be cases where the unusual topography and elevation of a site, of the size of the parcel involved, or the presence of screening on abutting property would make the strict adherence to this chapter serve no useful purpose. In those cases, the Zoning Enforcement Officer is empowered to waive the requirements for screening as long as the spirit and intent of this chapter and the general provisions of this chapter pertaining to screening are adhered to. This section does not negate the necessity for establishing screening for uses abutting vacant property.
- F. *Vegetative requirements along shorelines of sounds, rivers, canals and other water bodies.* Except when accessory structures are allowed in rear or side yards under other provisions of this chapter, the minimum rear and side yards for the zoning district in which the lot is located shall remain vegetated on waterfront lots. The vegetation shall consist of grass, trees, other planted ground cover or remain in a natural state. Only the sides of the lot abutting the sound, river, canal or other water body shall comply with this requirement.

§ 154.047 DEVELOPMENT WITHIN COASTAL AREA MANAGEMENT ZONE.

The North Carolina Coastal Area Management Act (CAMA) governs development within certain areas of environmental concern, including areas directly abutting coastal waters. Prior to issuance of a zoning permit, required CAMA permits must have been issued.

§ 154.048 STRUCTURES PERMITTED ABOVE THE HEIGHT LIMIT.

- A. The following structures, features or equipment are permitted above the height limit in any district: silos, skylights and roof structures for elevators, stairways, tanks, ventilating fans, air conditioning or similar equipment for the operation or maintenance of the building and any device used for screening structures and equipment.
- B. The following structures are permitted above the height limit on lots in the business, and industrial district which do not abut lots in any residential district: steeples, flagpoles, chimneys, water tanks or similar structures. If this type of structure is on a lot which abuts a residential district, then the part of the structure above the height limit must be separated from any abutting lot line by a distance equal to at least one-half of its height measured

from the ground. Towers used to support electric power and other utility lines are exempt from this requirement.

- C. The structures listed in division (A) above are also permitted above the height limit in residential districts. However, any part of a structure which extends above the height limit must be separated from any abutting property line by a distance equal to at least one-half of its height measured from the ground. Otherwise the structure will be subject to the usual requirements for the particular district. Towers used to support electric power and other utility lines are exempt from this requirement. Towers and other similar structures used solely for the purposes of amateur radio reception and transmission shall be exempt from this requirement.
- D. The height of any structure shall be measured from its finished grade.

§ 154.049 PROPOSED STRUCTURES 50 FEET OR GREATER IN HEIGHT.

- A. When a proposed development includes a structure 50 feet or greater in height, a determination by the MCAS Cherry Point base commander of whether the proposed structure creates an Airport Obstruction or Interference is required.
- B. Any proposed building or structure of 50' or greater in height, for which the MCAS Cherry Point base commander determines creates an Airport Obstruction or Interference, is prohibited.
- C. In addition, the Town of Bogue will not approve certain buildings and structures 200' or more in height, proposed within 5 miles of a Major Military Installation, except upon demonstration of compliance with the Military Lands Protection Act of 2013.

§ 154.050 ACCESSORY STRUCTURES.

Accessory structures will not be permitted in any required front yard or within five feet of any side or rear exterior property line. If located on a corner lot, the accessory structure will not be nearer to the side street than the principal structure. Security guard stations and gates may be located within any required setback or yard provided that the site has been approved by the Zoning Enforcement Officer. Underground accessory structures will be permitted within any setback or yard requirement in any district but shall not be permitted any closer than five feet to any exterior property line. Canopies to cover gasoline pumps are permitted to be located ten feet from any exterior property line. Exempted from the requirements for accessory structures are well houses, fences, mail boxes, flower boxes, dog houses and the like.

§ 154.051 MINIMUM REQUIREMENTS FOR MIXED USES.

When two or more uses occupy the same building and those uses would normally have different minimum requirements, the more restrictive requirements shall apply. The off-street parking and loading requirements for each use must be met fully.

§ 154.052 CERTAIN EXTENSIONS INTO YARDS ALLOWED.

Architectural features such as cornices, eaves, gutters and handicapped ramps may project up to three feet into any required yard or beyond any required setback unless a feature would obstruct driveways which may be used for service or emergency vehicles.

§ 154.053 LOCATION OF REQUIRED YARDS ON IRREGULAR LOTS.

The location of required front, side and rear yards on irregularly shaped lots will be determined by the Zoning Enforcement Officer. The determination will be based on the spirit and intent of this chapter to achieve an appropriate spacing and location of buildings on individual lots.

§ 154.054 SPECIAL YARD REQUIREMENTS FOR CORNER LOTS.

In any zoning district, the side yard requirements for corner lots along the side street right-of-way shall be required to have an additional ten feet of yard requirement, unless otherwise stated.

§ 154.055 REAR YARD REQUIREMENTS FOR THROUGH LOTS.

If both the front and the rear yards of a lot abut public streets, then the minimum rear yard will be the same as the minimum front yard for the district. Section 154.060 also contains standards for yards, including rear yards which abut thoroughfares.

§ 154.056 MORE THAN ONE PRINCIPAL BUILDING PER LOT.

Only one principal building and its customary and/or rightful accessory buildings may be erected on any residentially zoned lot.

§ 154.057 FENCES AND WALLS IN RESIDENTIAL DISTRICTS.

Within residential districts no freestanding wall or fence may exceed ten feet in height. This wall and fence height limit does not apply to walls and fences constructed around electric and gas substations; telephone repeater stations or huts; sewage treatment plants; pressure regulator stations; buildings to house pumps and lift stations and similar structures; radio telephone and television masts, towers, antennas and similar structures; municipal reservoirs and water storage tanks. Walls and fences to these uses need not conform to any of the yard or setback requirements specified in this chapter.

§ 154.058 DRIVEWAY PERMITS.

Driveway permits shall be required upon any road or right-of-way upon which the North Carolina Department of Transportation requires one.

§ 154.059 VISIBILITY AT INTERSECTIONS.

On a corner lot in any residential district, no plantings, fence, wall or other obstruction to visibility more than three feet in height shall be placed in the area bounded by the street rights-of-way of corner lots and a line joining points along a street rights-of-way 50 feet from the point of intersection.

§ 154.060 SPECIAL REQUIREMENTS FOR LOTS ALONG THOROUGHFARES (I.E. HIGHWAY 24).

When the front, rear or side yard of a lot in any district abuts a thoroughfare, the minimum setback on the side of the thoroughfares shall be 40 feet.

§ 154.061 TEMPORARY USES.

- A. *Purpose.* This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.
- B. *Applicability.* The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the jurisdiction. The activities listed in this section require the issuance of a temporary use permit, except as exempted, in accordance with the standards in Section §154.061 E, Temporary Use Permit.
- C. *General Standards for Temporary Uses.* All temporary uses shall comply with the following general standards, unless otherwise specified in this Ordinance:
 1. *General Standards.*
 - a. Secure written permission from the landowner;
 - b. Obtain the appropriate permits and licenses from the Town and other agencies;
 - c. Comply with the requirements for temporary signs in § 154.080.2;
 - d. Meet public utility and Carteret County building requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;

- e. Not violate the applicable conditions of approval that apply to a site or use on the site;
 - f. Not result in a situation where the principal use, if present, fails to comply with the standards of this Ordinance;
 - g. Contain sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;
 - h. Provide adequate on-site restroom facilities (as appropriate); and
 - i. Cease all outdoor activities within five hundred (500) feet of a residential use by 10:00 p.m.
2. *General Conditions.* In approving a temporary use permit, the Zoning Administrator is authorized to impose any of the following general conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use. The Zoning Administrator is authorized, where appropriate, to require:
- a. Provision of temporary parking facilities, including vehicular access and egress;
 - b. Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
 - c. Prohibition of the storage or use of hazardous materials;
 - d. Regulation of placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 - e. Provision of sanitary and medical facilities;
 - f. Provision of solid waste collection and disposal;
 - g. Provision of security and safety measures;
 - h. Use of an alternate location or date;
 - i. Modification or elimination of certain proposed activities;
 - j. Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
 - k. Submission of a performance guarantee to ensure that any temporary use will be removed from the lot or site within a reasonable time and the lot or site will be restored to its former condition.

D. *Standards for Specific Temporary Uses.*

1. *Portable Storage Container.* Portable storage containers may be permitted as a use accessory to a single-family detached, duplex, triplex, quadplex dwelling unit, subject to the following standards:
 - a. *Types Distinguished.* Portable storage containers shall take one (1) of the following three (3) forms:
 - i. A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated.
 - ii. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris; or
 - iii. A fully-enclosed, non-motorized, trailer (commonly known as a semi-trailer) with wheels intended to be towed to a site for the purpose of storage or transport of goods, materials, or equipment.
 - b. *Maximum Size.* Containers no larger in dimension than eight (8) feet in height, nine (9) feet in width, or sixteen (16) feet in length.
 - c. *Maximum Number.*
 - i. No more than two (2) portable storage containers shall be located on a single lot or parcel of land.
 - ii. No other type of container or shipping container is located on the same lot or parcel of land.
 - d. *Hazardous Substances.* Portable storage containers shall not be used to store or transport nonresidential materials and substances, including but not limited to the following: solid waste, hazardous materials, explosives, and unlawful substances and materials.
 - e. *Duration.* A portable storage container may remain upon a lot for 14 days except when used in conjunction with construction on the same lot and shall then be removed within fourteen (14) days of the issuance of a certificate of occupancy.
 - f. *Location.*
 - i. If a portable storage container is placed in the front yard, then it shall be located only in the area primarily used for vehicular ingress and egress and be at least five (5) feet from the edge of the paved right-of-way. In no instance shall the placement of a portable storage container result in a fewer off-street parking spaces than are required in §154.063.

- ii. If a portable storage container is placed in the required rear or side yard, accessory setback shall be required.
 2. *Temporary Real Estate Office.* A temporary real estate office is permitted on a lot in a residential, mixed-use, or business district, subject to the following standards:
 - a. The office is located on a lot that is part of the real estate development being sold or leased.
 - b. Signage complies with the standards of Section §154, Signage.
 - c. The office complies with the dimensional standards of the zoning district in which it is located.
 - d. The temporary office is converted into a dwelling or removed within thirty (30) days after all units are sold or leased.
- E. *Temporary Use Permit.*
 1. *Applicability.* The provisions of this section shall apply to all proposed temporary uses and structures set forth in §154.061, Temporary Uses.
 2. *Temporary Use Permit Procedure.*
 - a. Application Submittal and Acceptance. §154.020 Application for Zoning Permit
 - b. The Zoning Administrator shall review and decide the application in accordance with Section 154.125, Temporary Uses.
 - i. *Temporary Use Permit Review Standards.* A temporary use permit shall be approved if the applicant demonstrates the proposed temporary use or structure complies with the relevant standards in §154.061 Temporary Uses and Structures.
 - ii. *Effect.* Approval Limited. Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.
 - iii. *Amendment.* Amendment of a temporary use permit approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
 - iv. *Expiration.* Approval of a temporary use permit shall be effective beginning on the date of approval and shall remain effective for the period indicated in the permit.
 - v. *Appeal.* In cases where the applicant for a zoning permit appeals an administrative decision the Zoning Administrator will forward all information

pertaining to the application to the Zoning Board of Adjustment per §154.019 Zoning Permits.

OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 154.062 OFF-STREET PARKING REQUIREMENTS.

In order to assure a proper and uniform development of public parking areas throughout the Town of Bogue, to relieve traffic congestion in the streets and to minimize any detrimental effects of off-street parking areas on adjacent properties, the procedures and standards set forth in this chapter.

§ 154.063 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS.

Off-street parking must be provided and maintained as specified in the following schedule. These requirements will apply to all new buildings and uses and to new additions to existing buildings and uses in all districts.

Type of Use	Parking Standards
ABC Stores	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Agricultural Uses and Bona Fide Farm(s)	One (1) space per employee
Agricultural Uses (Excluding Livestock)	One (1) space per employee
Ambulance Service, Private	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Animal Hospital/Veterinary Clinic	One (1) space per four hundred fifty (450) square feet floor area.
Animal Kennel	One (1) space per employee plus five (5) spaces for visitors.
Artisan Studio	One (1) space per four hundred fifty (450) square feet floor area.
Auction Facility	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Automobile/Boat Washing Establishment	Three (3) spaces for each wash rack and one (1) space for each two (2) employees, but no fewer than five (5) spaces
Bakery Plants	One (1) space per six hundred (600) square feet of gross floor area
Banks and Financial Institution	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Boat Manufacturing, Service, and Repair	One (1) space per six hundred (600) square feet of gross floor area
Boat Sales	One (1) space per four hundred fifty (450) square feet of gross floor area.

Building Materials/Garden Supplies/Hardware Store	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Bus and Taxi Terminal	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Cabinet and Woodworking Shop	One (1) space per six hundred (600) square feet of gross floor area
Cemetery	None
Church or Religious Complex	One (1) space for each six (6) seats in the sanctuary.
Convenience Store/Gas Station	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Daycare Center	One (1) space for each employee plus four (4) spaces for drive-in, off-street drop-off, and pickup.
Distilleries	One (1) space per six hundred (600) square feet of gross floor area
Dry Cleaning/Laundry Establishment	One (1) space per two hundred twenty-five (225) square feet.
Dwelling, Duplex	Two (2) spaces per unit.
Dwelling, Multi-Family	Two (2) spaces per unit; plus one space for every six (6) units for overflow.
Dwelling, Single-Family	Two (2) spaces.
Entertainment Facilities	One (1) space per 200 square feet plus one space per every four persons accommodated by the facility at maximum capacity.
Entertainment, Outdoor	One (1) space for each three (3) persons able to use such facility at its maximum capacity plus ten (10) spaces for waiting.
Exterminating Services	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Fruit or Vegetable Stand	One (1) space per one thousand (1,000) square foot of lot area used for storage, display or sales.
Fruit or Vegetable Stand for Products Grown or Made On-Site	One (1) space per one thousand (1,000) square foot of lot area used for storage, display or sales.
Government Uses	One (1) space for each employee.
Home Occupations	Two (2) spaces in addition to residence requirement.
Health Services	One (1) space per two hundred twenty-five (225) square feet.
Heavy Equipment Sales	One (1) space per four hundred fifty (450) square feet of gross floor area.
Heavy Equipment Services	One (1) space per four hundred fifty (450) square feet of gross floor area.
Landscaping Materials/Supplies Sales	One (1) space per four hundred fifty (450) square feet of gross floor area.
Local Municipal Offices and Facilities	One (1) space for each employee.
Manufactured Housing	Two (2) spaces.
Manufacturing and Production of Goods	One (1) space per six hundred (600) square feet of gross floor area.
Mining/Extraction/Excavation	One (1) space for each employee.

Motel, Hotel	One (1) space for each room to be rented plus one (1) additional space for every two (2) employees.
Offices, General	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Personal Services	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Printing and Publishing	One (1) space per six hundred (600) square feet of gross floor area
Private Stables	Two (2) spaces.
Public or Private School	One (1) space for each ten (10) students, plus one (1) space for each employee.
Public Utility Facilities	One (1) space for each employee.
Restaurant	One (1) space for each one hundred (100) square feet of gross floor area, plus a minimum of fifteen (15) spaces for drive-in service.
Retail	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Sale of Alcoholic Beverages in Retail Establishments	One (1) space for each two hundred twenty-five (225) square feet of gross floor area.
Sexually Oriented Business	One-half (.5) space times (X) the maximum occupancy load allowed by the building code plus one (1) space per two (2) employees.
Standalone ATM/Vending	One (1) space per fifty (50) square feet of kiosk area.
Storage, Enclosed	One (1) space per each one thousand (1,000) square feet of gross floor area.
Storage, Open	One (1) space per five (5,000) square feet of lot area used for storage.
Telecommunication Towers	One (1) space per three thousand five hundred (3,500) square feet of lot area used for telecommunication tower.
Temporary Uses	See Bogue Code 154.061
Vehicle, Repair Facility	Three (3) spaces for each grease or wash rack and one (1) space for each two (2) employees, but no fewer than five (5) spaces.
Vehicle, Sales	One (1) space per four hundred fifty (450) square feet of gross floor area.
Warehousing, General	One (1) space per nine hundred (900) square feet of gross floor area
Wholesale, General	One (1) space per nine hundred (900) square feet of gross floor area
Wholesale/Retail Greenhouses or Plant Nurseries	One (1) space per one thousand (1,000) square foot lot area used for storage, display or sales.
Wholesale Storage and Sale of Fuel and Petroleum Products	One (1) space per one thousand (1,000) square foot lot area used for storage, display or sales.

§ 154.064 PARKING SPACE AND TRAVEL AISLE WIDTH DEFINED.

- A. A parking space is defined as an off-street space exclusively available for the parking of motor vehicles. A standard parking space must have minimum dimensions of ten feet in width and 20 feet in length with a minimum of 200 square feet needed. This area does not include any passageways and driveways used for access to the space or spaces. Where

there are lots designed to accommodate more than ten vehicles, up to 25% of the spaces may have minimum dimensions of seven and one-half feet in width and 16 feet in length. The smaller spaces, if provided, shall be designated for use only by compact cars.

- B. The minimum width of a travel aisle width in a parking lot with two-way (two lanes) traffic shall be 24 feet. The minimum width of a traffic aisle for one-way (one lane) parking shall be 14 feet.

§ 154.065 PARKING SPACES IN DRIVEWAYS.

In the absence of garages or carports, driveways may be considered as providing required offstreet parking spaces for single-family, two-family and three-family dwellings in residential districts.

§ 154.066 LOCATION OF PARKING SPACES.

- A. Parking spaces must be located so that no space is farther than 400 feet from the buildings or uses to which it is assigned. However, in no case shall parking be located across a thoroughfare (i.e., Highway 24) from the use nor shall parking be permitted within a structure unless it is an approved parking garage.
- B. The Planning Board may waive this distancing requirement if a shuttle system is provided for the use. This 400-foot distancing requirement does not apply to parking spaces for auditoriums, assembly halls, gymnasiums and other places of assembly, industrial, wholesaling, manufacturing establishments and hospitals.
- C. A strip of land not less than ten feet in width shall be required between the first row of parking and any adjoining right-of-way.

§ 154.067 PARKING SPACE ASSIGNED TO ONE USE.

Required parking spaces for any number of separate buildings or uses may be combined in one lot, but the required spaces assigned to one use may not be assigned to another use at the same time. The required parking spaces for places of assembly may be assigned to parking spaces that are otherwise assigned to other uses. If the parking spaces are normally used at different times and a written agreement between both parties regarding the requirements of § 154.067 is submitted to the Zoning Administrator.

§ 154.068 PARKING SPACES SHALL NOT BE REDUCED IN NUMBER.

Off-street parking spaces shall not be reduced below the minimum required for the use or facility to which they are assigned. Off-street parking spaces for buildings or uses which existed at the time of the adoption of this chapter and which were inadequate to meet the minimum

parking spaces required by this chapter must not be reduced as long as those buildings and uses continue to be in existence.

§ 154.069 ADDITIONS TO BUILDINGS DEFICIENT IN PARKING SPACES.

The provision of extra parking spaces is not required for additions to existing buildings and uses that do not meet the minimum requirements for off-street parking spaces if any additions do not represent an additional parking requirement of more than three off-street parking spaces. If more than three parking spaces would be required, the addition must comply with all applicable parking standards.

§ 154.070 PARKING PLANS REQUIRED.

Plans for off-street parking lots, whether public or private, must be submitted to the Zoning Enforcement Officer for review for compliance with the provisions of this chapter with other pertinent ordinances. Each plan must indicate the number of spaces and arrangement of parking aisles, location of driveway entrances, provisions for vehicular and pedestrian circulation, locations of sidewalks and curbs on or deemed necessary by the Zoning Enforcement Officer to fulfill other ordinance requirements. Detached single-family, two-family and three-family residences are exempted from this requirement.

§ 154.071 BARRIERS REQUIRED.

Curbs, walls, fences, ditches or similar devices must be located along the perimeter of parking lots, garages and storage area, except at entrances and exits indicated on approved parking plans. These barriers must be designed and located to prevent parked vehicles from extending beyond property lines of parking lots and garages and to protect public rights-of way and adjoining properties from damaging effects from surface drainage from parking lots.

§ 154.072 PARKING AND STORAGE AREAS.

- A. Parking lots, garages and storage areas must be designed and constructed so that all maneuvering to park cars can take place entirely within the property lines of the lot.
- B. All parking areas shall be designed so that there will be no need to use streets, sidewalks, alleys or other public rights-of-way for parking or maneuvering to and from off-street parking spaces, except where maneuvering is necessary in the use of driveways for access to and from single-family, two-family and three-family dwellings.
- C. Access to parking areas will be limited to driveway entrances and exits specified in the approved parking area plans.

§ 154.073 PARKING SPACES AND LOTS TO BE IMPROVED.

All parking lots and spaces, excluding those provided for detached single-family dwellings shall be improved with gravel or marl, turfstone, compacted stone, asphalt or concrete or any other innovative means of paving. Each parking space, except those provided for detached single-family dwellings, shall be delineated by curbs, railroad ties, paint or other similar material.

§ 154.074 HANDICAPPED PARKING.

One handicapped parking space shall be required per 50 parking spaces. Each handicapped space must meet the terms of the N.C. Building Code and be delineated as required in § 154.074.

§ 154.075 OFF-STREET LOADING REQUIREMENTS.

- A. *Spaces appropriate to function.* Off-street loading spaces must be provided as appropriate to the function and scope of operation of individual or groups of buildings and uses.
- B. *Design of loading spaces.* Off-street loading spaces must be designed and constructed so that all maneuvering to park and unpark vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as not to interfere with the normal movement of vehicles and pedestrians on public rights-of-way.

DESIGN STANDARDS AND REGULATIONS OF SIGNS

§ 154.076 GENERAL REQUIREMENTS.

- A. The purpose of this subchapter is to regulate the type, placement, and physical dimensions of signs in the interest of public health, safety, and welfare, while recognizing the need for signs in the business community. To protect the safety and welfare of the public by minimizing hazards and distractions to vehicular traffic. To encourage the effective use of signs as a means of communication for businesses, organizations, and individuals. To further economic development by providing for adequate business identification, advertising, and communication. To avoid unnecessary visual clutter and to avoid the unregulated construction, placement, and display of signs which are or may become a public nuisance. To enable the fair and consistent enforcement of sign regulation.
- B. No sign of any type, or any part thereof shall be erected, painted, posted, placed, replaced, or hung in any zoning district except in compliance with these regulations.

- C. All signs shall be constructed and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution, as specified in the NC State Building Code.

§ 154.077 APPLICATION MATERIALS.

A zoning permit shall be required for all signs, except those identified in § 154.080. Each application for a zoning permit for a sign shall be made in writing upon forms furnished by the Zoning Administrator, and shall contain or have attached the following information:

- A. A drawing approximately to scale showing the design of the sign, including dimensions, method of attachment or support, source of illumination, and showing the relationship to any building or structure to which it is, or is proposed to be, installed or affixed.
- B. A plot plan, approximately to scale, indicating the location of the sign relative to property lines, easements, buildings, streets, and other signs.
- C. Sign plans shall be submitted to the Zoning Administrator for approval prior to the Building Inspector issuing a building permit. A record of applications and actions taken shall be kept in the Bogue zoning files and County Planning Department.
- D. Before being granted a sign permit, each applicant shall pay to the town a fee for each sign permit. The Town Council shall set the fee on the Town Fee Schedule. Prior to additional signs being permitted, for a single lot, all existing signs must be brought into compliance.

§ 154.078 SIGNS PROHIBITED IN ALL DISTRICTS.

The following signs are prohibited in all zoning districts:

- A. Advertising signs resembling traffic signals, traffic signs, emergency vehicles flashing lights, and which are likely to be misconstrued by the traveling public as being official governmental signs or emergency warnings, or which by their distracting nature create a hazard to motorists;
- B. Signs advertising an activity, business, product, or service no longer conducted on the premises upon which the sign is located. Signage shall be removed within 90 days from the date of termination of that activity. Upon failure of the owner to remove the signs within the prescribed time, the Zoning Enforcement Officer shall take appropriate legal action to have the sign removed;
- C. No occulting, oscillating, flashing, rotating, flickering, or blinking of signs shall be permitted;

- D. Signs, other than traffic governmental or street name signs or official signs, shall not be permitted within any street right-of-way or placed in such a manner as to obstruct driver vision of any vehicle entering a roadway from any street, alley, driveway, or parking lot. Specifically, there shall be no obstruction to vision between a height of three (3) feet and ten (10) feet at the intersection of any connecting streets.
- E. Roof signs;
- F. Three-dimensional signs;
- G. Beacon lights, signs with moving parts, animated signs, trailer signs and snipe signs;
- H. Portable signs other than a sandwich board sign as defined and outlined within this subchapter;
- I. Any sign utilizing florescent colored lettering or that is painted in a manner which poses a nuisance or acts as a distraction to motorists.
- J. No sign shall be erected which obstructs any fire escape, required exit, window, or door opening intended as a means of egress.
- K. No signs shall be erected that interfere with any opening required for ventilation and/or light to a structure.
- L. Signs which emit any sound, odor, or other visible matter, such as smoke or vapor;
- M. Feather flag signs and pennant string flags or signs. Commercial banners, balloons, advertising flags, streamers, spinners, placards, line pennants and other wind activated devices.

§ 154.079 SIGNS PERMITTED IN ALL DISTRICTS ZONING PERMIT REQUIRED

- A. A zoning permit shall be required for all on and off-premise signs, except those identified in § 154.080.
- B. The following signs are permitted in all districts, but the standards outlined below apply.
 - 1. Off-premise directional signs. Signs identifying the name or location of a business remote from the location of the business, provided that the sign shall not exceed six square feet in area. No sign shall be illuminated or contain moving parts. Upon selection of a site, written authorization from the landowner shall be required to permit the siting of the sign in that location. A zoning permit shall be required for all off-premise directional signs.

§ 154.080 SIGNS PERMITTED IN ALL DISTRICTS ZONING PERMIT NOT REQUIRED.

- A. The following signs are permitted in all districts unless indicated otherwise. A zoning permit shall be required for all illuminated signs.
- B. No zoning permit shall be required for the following signs:
 - 1. Signs erected by a governmental agency to regulate, control or direct vehicular or pedestrian traffic;
 - 2. Public or legal notices, warnings, regulatory or informational signs erected by a public agency;
 - 3. Signs required by law;
 - 4. Customary identification signs such as building numbers, addresses, private parking signs, security signs, neighborhood watch signs, no trespassing signs, beware of animal signs, or similar signs which enhance emergency response and public safety;
 - 5. Flags, emblems, or insignia of any national, state, or political subdivision;
 - 6. Temporary lighting and displays that are part of customary holiday decorations, provided that they contain no commercial message, are located on private property, and are not located in the public right-of-way;
 - 7. Political campaign signs. Political campaign signs may be displayed six (6) weeks prior to an election and one (1) week following an election, there shall be no limit as to the number of temporary signs permitted. Permission from the property owner fronting the street must be obtained. Any signs placed in the right of way of town maintained streets will be removed if left more than 30 days past the allowed time. Signs placed on NC DOT maintained streets must comply with NC GS 136-32.

§ 154.080.2 TEMPORARY SIGNAGE WITH TEMPORARY USE PERMIT

- A. Each lot shall be allowed up to one (1) temporary sign per street frontage, subject to the following standards:
 - 1. Temporary signage on residentially-zoned lots shall not exceed six (6) square feet of sign area per sign;
 - 2. Temporary signage on lots zoned for business uses shall not exceed thirty-two (32) square feet of sign area per sign;
 - 3. Temporary signs shall not be illuminated; and

4. Temporary signs may remain in place for up to thirty (30) days per lot. This thirty-day period may be renewed by the Zoning Administrator up to twelve (12) times per lot per year.

§ 154.081 SIGN REQUIREMENTS.

All signs shall be constructed and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution, as specified in the NC State Building Code. Signs shall comply with all applicable federal, state, and local laws and regulations. The display surfaces of signs shall be kept neatly painted or posted at all times.

- A. *Illuminated signs.* No illuminated sign shall be so designed or placed that direct or reflected light or glare constitutes a hazard or annoyance to motorists or occupants of adjoining properties. All LED (light emitting diode) signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings, in order to bring down the lighting level at night.
- B. *Determination of sign area.* For the purposes of this chapter, the square footage area of any sign shall be measured by the smallest area enclosed by one continuous line connecting the extreme points or edges of the sign. This includes lattice work, frame, border molding, lettering, and display area incidental to the sign's decoration.
- C. *Maintenance.* All signs, together with braces, guys, and supports shall at all times be kept in good repair. If at any time a sign should be abandoned, unsafe or poorly maintained, the Zoning Officer shall notify the owner of the sign of the condition, and upon failure of the owner to correct the condition, the Zoning Officer shall take appropriate legal action to have the sign repaired or removed.
- D. *On-premise, commercial signs.* These signs shall comply with all state and county building codes and the National Electric Code. Clearance of signs is required from high voltage power lines and signs shall be located in a way so that they will maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code specifications, provided that no sign shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire. On-premise signs shall be permitted in all identified commercial zoning districts provided that the sign advertises the principal use of the lot and meets all other requirements of this section subject to the following:
 1. No on-premise sign shall be located closer than ten feet from the right-of-way or five feet from the side property lines. Corner lot minimum 10' setback from any property line and a minimum distance of 40 feet from the intersection point.
 2. One ground or pole on-premise sign shall be permitted per parcel, unless the use is located within a complex, such as a business complex or office complex.

Table of Requirements for ground or pole on-premise signs:

Size and Type of Development	Maximum Number of Signs	Max. Area Per Face
Nonresidential 40,000 to 100,000 SF of building footprint	1 per street front	80 SF [plus 8 SF per additional advertised tenant up to a maximum of 40 SF]
Nonresidential 2,500 to 40,000 SF of building footprint	1 per street front	80 SF [plus 8 SF per additional advertised tenant up to a maximum of 32 SF]
Nonresidential up to 2,500 SF of building footprint	1 sign maximum	64 Square Feet

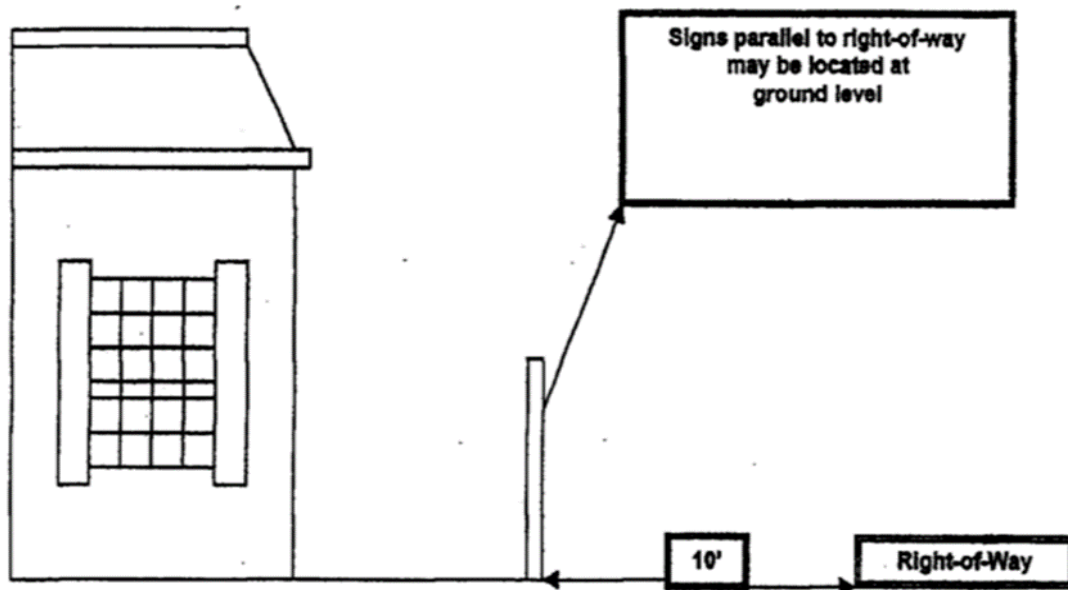
3. The height of a ground or pole on-premise sign shall not exceed 20 feet in height from the grade of the right-of-way or surface grade beneath the sign, whichever is less. The clearance of a ground or pole on-premise sign shall not be less than eight feet from the grade of the right-of-way or finished grade beneath the sign, whichever is less.
 4. Signs which are placed parallel to the right-of-way shall be permitted to be located at ground level ten feet from the right-of-way as shown on the previous illustration;
 5. No sign shall be erected at the intersections of streets, driveways, or alleys in a manner so as to obstruct clear vision;
 6. Special event displays are permitted provided that they are in accordance with all sections of this chapter;
 7. No sign shall be placed within 50 feet of a lot zoned for residential purposes unless the sign is permitted in residential districts.
- E. *Off-premise, commercial signs.* These signs shall comply with all state and county building codes and the National Electric Code. Clearance of signs is required from high voltage power lines and signs shall be located in a way so that they will maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code specifications, provided that no sign be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.
1. Off-premise signs (billboards) shall be permitted as a special use in the I-W zoning district.
 2. No off-premise sign shall be located closer than ten feet from any property lines.
 3. The height of an off-premise sign shall not exceed 20 feet in height from the grade of the right-of-way or surface grade beneath the sign, whichever is less. The clearance of an off-premise sign shall not be less than eight feet from the grade of the right-of-way or surface grade beneath the sign, whichever is less.

4. In no case shall an off-premise sign be located closer than 500 feet to an existing off-premise sign.
5. Maximum sign area per face 96 square feet.
6. A maximum of two (2) faces per sign are permitted.

F. *Exceptions to setback requirements.*

1. Building existed in current location prior to widening of Highway 24 to five lanes.
2. On-site inspection by the Zoning Administrator to verify that strict enforcement of the current sign setback requirements would be an issue for the business.
3. Situation exists through no fault of the business property owner.
4. The proposed sign location would not create a safety issue such as blocking the view for vehicles entering Highway 24.
5. Planning Board review and approval.

G. *Signs parallel to right-of-way.* Signs parallel to the right of way may be located at ground level. Minimum of 10 foot setback from right of way.



H. Signs with removable typeface shall be designed and manufactured in such a manner that the removable typeface shall be completely contained inside a transparent cover.

- I. All signs shall be designed and manufactured to comply with the town's Sign Ordinance. Signs purchased through a distributor/sign maker, including signs constructed by the business/property owner, shall not be altered to comply with the town's Sign Ordinance.

§ 154.082 SIGN REGULATIONS IN RESIDENTIAL DISTRICTS.

- A. In addition to the signs listed under § 154.079 and § 154.080, the following regulations shall apply in residential districts. All these signs shall be required to have a zoning permit.
- B. None of these signs shall be illuminated unless otherwise allowed within this subchapter:
 1. All signs in the residential district requiring a sign zoning permit shall be set back a minimum of ten feet from any property line or street right-of-way;
 2. Subdivision Identification signs shall be permitted. They may be ground or pole signs. The maximum area of identification signs in residential districts is 48 square feet unless otherwise stated;
 3. Agricultural products produced on-premises. Signs advertising agricultural products produced on the premises shall not exceed 15 square feet.
 4. Signs for Special Uses. These signs are limited to one per parcel or street front, with a maximum area of 15 square feet.
 5. Home occupations shall be permitted to have one on-premise sign not exceeding 15 square feet in sign area; and
 6. Signs for Special Uses in residential districts may be given special sign permits.

§ 154.083 SIGN REGULATIONS IN BUSINESS DISTRICTS.

In addition to the requirements listed under other sections of this subchapter, the following regulations shall apply for each business district:

- A. B-1 and OI Commercial Zoning Districts:
 1. No sign in this district shall be less than ten feet from the nearest street right-of-way or less than ten feet from the side property line.
 2. Signs permitted on the premises of special uses shall be subject to all the restrictions listed under the B-1 and OI Commercial Zoning District;
 3. *Ground Sign.* Not more than one ground sign is permitted per parcel unless the parcel is located on a corner of two thoroughfares. In that case, two ground signs shall be

- permitted, one for each road front of the lot. In no case shall the signs be any closer than 50 feet from the intersection of the two roads.
4. *Special events and temporary signs.* These shall be permitted provided that they meet all the regulations of this chapter. The application for the permit shall have the following additional information: length of time the sign will remain. In no case shall this exceed 30 calendar days within a 12-month period. All special display banners shall be located at the business advertising the special event. Under no circumstances shall a special display banner be allowed within a public right-of-way or within a required parking space.
 5. *Directional signs.* Directional signs not exceeding the six square feet per face shall be permitted;
 6. *A-Frame or T-Frame signs.* Shall be permitted subject to the following conditions:
 - a. No A- or T-Frame sign shall be erected within an identified public right-of-way or within a required parking space;
 - b. The sign shall be limited to eight square feet in area and four feet in height;
 - c. Businesses shall only be allowed the use of two of these type of signs at any one time;
 - d. All frame signs shall be secured within the business after normal business hours. No frame sign shall be allowed to remain in public view once the business utilizing the sign has ceased operations for the day; and
 - e. The sign must be constructed of materials that present a finished appearance. Rough-cut plywood is not acceptable. The sign lettering should be professionally painted or applied.
 7. *Wall signs.* An on-premises sign attached flat to or mounted away from but parallel to the building wall, typically extended no more than 12 inches from the building wall. Permanent wall signs shall be permitted for each separate business establishment provided the total allowable sign area for all signs shall not exceed three (3) square foot for each lineal foot of building wall facing a public street. No portion of a wall sign may extend above the roofline of a building.
 8. *Illuminated signs.*
 - a. No illuminated sign shall be so designed or placed that direct or reflected light or glare constitutes a hazard or annoyance to motorists or occupants of adjoining properties. All LED (light emitting diode) signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings, in order to bring down the lighting level at night.

- b. An electronic message board may be used as a portion of the allowed signage area subject to the following conditions:
 1. Blinking, flashing, pulsating, and/or rotating shall not be permitted.
 2. The message cannot change more than once every 30 seconds.
 3. The sign shall not emit any sound or noise of any type.
 4. The message board lighting shall be limited to LED or similar low-intensity lighting. The stationary portion may be externally illuminated with down lighting so as not to affect the view of motorists.
 5. No sign within 150 feet of a residential zone may be illuminated between the hours of 12:00 midnight and 6:00 a.m. unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.
9. *Banners.* All special display banners shall be located at the business advertising the special event. Under no circumstances shall a special display banner be allowed within a public right-of-way or within a required parking space.
10. *Window Signs.*

§ 154.084 SIGNS PERMITTED IN INDUSTRIAL DISTRICT.

In addition to the requirements listed under other sections of this chapter, the following regulations shall apply in the Industrial Zoning Districts:

- A. No billboard or roof signs shall be permitted in I-W. Billboard signs shall be allowed as a special use within the I-W Zoning District subject to the applicable provisions outlined within the I-W Zoning District;
- B. Maximum square footage of sign area for these districts shall be 200 square feet;
- C. Signs on the premises of special uses shall be subject to all the restrictions listed within the I-W zoning districts;
- D. Signs on the premises of permitted uses in I-W shall be subject to the following restrictions as to number and size:
 1. Ground signs: Not more than one ground sign is permitted per parcel;

2. Directional signs: Directional signs not exceeding six square feet per sign face shall be permitted. No more than two directional signs shall be permitted at each entrance; and
 3. Wall signs. Shall be permitted within the I-W Zoning District only advertising businesses located on the same parcel.
- E. No sign in these districts shall be less than ten feet from the nearest street right-of-way.

MINIMUM DIMENSIONAL REQUIREMENTS

Zoning District	Lot	Lot	Setback (feet)			Side Yard on Street r-o-w	Maximum Height (feet)
	Area (Sq. Ft.)	Width (feet)	Front Yard	Rear Yard	Side Yard		
Rural Agricultural District (RA)	50,000	150	50	30	10	20	35
Low-Density Residential District (R-20)	20,000	100	30	30	10	20	35
Medium-Density Residential District (R-15)							
No Public Water Or Sewer	20,000	80	20	25	10	20	35
Public Water Or Sewer	15,000	80	20	25	10	20	35
Mobile Home Overlay (R-15M)							
No Public Water Or Sewer	20,000	80	20	25	10	20	35
Public Water Or Sewer	15,000	80	20	25	10	20	35
Office & Institutional District (OI)	30,000	100	30	25 ^a	10 ^a	15	35
Commercial District (B-1)							
No Public Water Or Sewer	20,000	80	40	20 ^a	10 ^a	15	35
Public Water Or Sewer	15,000	80	40	20 ^a	10 ^a	15	35
Public Water And Sewer	10,000	80	40	20 ^a	10 ^a	15	35
Industrial District (I-W)	43,560	100	50	30 ^a	20 ^a	30	45

a = Plus 50% when the yard abuts a residential use or district

TABLE OF PERMITTED AND SPECIAL USES – Updated 4/15/2024

Land Uses	B-1	I-W	OI	RA	R-15	R-15M	R-20
ABC Stores	P						
Accessory Uses	P	P	P	P	P	P	P
Agricultural Uses and Bona Fide Farm(s)				P			
Agricultural Uses (Excluding Livestock)				P			
Ambulance Service, Private	P	P					
Animal Hospital/Veterinary Clinic	P		P				
Animal Kennel	S	S	S	S			
Artisan Studio	P		S				
Auction Facility	S	S					
Automobile/Boat Washing Establishment	P						
Bakery Plants		P					
Banks and Financial Institution	P		P				
Boat Manufacturing, Service, and Repair	S	P					
Boat Sales	P	P					
Building Materials/Garden Supplies/Hardware Store	P						
Bus and Taxi Terminal	P						
Cabinet and Woodworking Shop	P	P					
Cemetery			P	P			
Church or Religious Complex	S		P	S	S	S	
Convenience Store/Gas Station	P						

Daycare Center	P		P				
Distilleries	S						
Dry Cleaning/Laundry Establishment	P						
Dwelling, Duplex					P	P	S
Dwelling, Multi-Family					P	P	
Dwelling, Single-Family				P	P	P	P
Entertainment Facilities	P						
Entertainment, Outdoor (e.g., Music)	S						
Exterminating Services	P	P					
Fruit or Vegetable Stand	P						
Fruit or Vegetable Stand for Products Grown or Made On-Site				P			P
Government Uses	S	S	S	S	S	S	S
Home Occupations				S	S	S	S
Health Services	P		P				
Heavy Equipment Sales	P						
Heavy Equipment Services		P					
Landscaping Materials/Supplies Sales	P						
Local Municipal Offices and Facilities			P	S	S	S	S
Manufactured Housing				S		P	
Manufacturing and Production of Goods		P					
Mining/Extraction/Excavation				S			
Motel, Hotel	P						
Offices, General	P		P				
Personal Services	P						
Printing and Publishing	P	P					
Private Stables				P			
Public or Private School	S		P				

Public Utility Facilities	S	S	S	S	S		S
Restaurant	P						
Retail	P						
Sale of Alcoholic Beverages in Retail Establishments	P						
Sexually Oriented Business	S						
Standalone ATM/Vending	P						
Storage, Enclosed	P	P					
Storage, Open		P					
Telecommunication Towers		S					
Temporary Uses							
Vehicle, Repair Facility	P	S					
Vehicle, Sales	P						
Warehousing, General		P					
Wholesale, General		P					
Wholesale/Retail Greenhouses or Plant Nurseries	P	P					
Wholesale Storage and Sale of Fuel and Petroleum Products		S					

P = Land use is permitted in the District

S = Land use requires a Special Use Permit to be permitted in the District

TABLE OF PERMITTED AND SPECIAL USES – AICUZ OVERLAY DISTRICT

Land Uses	CZ	APZ1	NZ 1	NZ 2	NZ 3
ABC Stores			P	P	P
Accessory Uses			P	P	P
Agricultural Uses and Bona Fide Farm(s)		P	P	P	S
Agricultural Uses (Excluding Livestock)	P	P	P	P	P
Ambulance Service, Private			P	P	P
Animal Hospital/Veterinary Clinic			P	P	S
Animal Kennel			P	P	S
Artisan Studio			P	P	P
Auction Facility			P	P	S
Automobile/Boat Washing Establishment		P	P	P	P
Bakery Plants			P	P	P
Banks and Financial Institution			P	P	P
Boat Manufacturing, Service, and Repair			P	P	P
Boat Sales		P	P	P	P
Building Materials/Garden Supplies/Hardware Store		P	P	P	P
Bus and Taxi Terminal			P	P	P
Cabinet and Woodworking Shop			P	P	P
Cemetery	P	P	P	P	P
Church or Religious Complex			P	P	
Convenience Store/Gas Station			P	P	P
Daycare Center			P	S	
Distilleries			P	P	P

Dry Cleaning/Laundry Establishment			P	P	P
Dwelling, Duplex			P	S	
Dwelling, Multi-Family			P	S	
Dwelling, Single-Family			P	S	
Entertainment Facilities			P	P	
Entertainment, Outdoor (e.g., Music)			S	S	
Exterminating Services			P	P	P
Fruit or Vegetable Stand			P	P	P
Fruit or Vegetable Stand for Products Grown or Made On-Site			P	P	P
Government Uses		P	P	P	P
Home Occupations			P	S	S
Health Services			P	S	S
Heavy Equipment Sales		P	P	P	P
Heavy Equipment Services		P	P	P	P
Landscaping Materials/Supplies Sales			P	P	P
Local Municipal Offices and Facilities		P	P	P	P
Manufactured Housing			P	S	
Manufacturing and Production of Goods		P	P	P	P
Mining/Extraction/Excavation			P	P	P
Motel, Hotel			P	S	
Offices, General			P	P	P
Personal Services			P	P	P
Printing and Publishing		P	P	P	P
Private Stables			P	P	S
Public or Private School			P	S	

Public Utility Facilities			P	P	P
Restaurant			P	P	P
Retail			P	P	P
Sale of Alcoholic Beverages in Retail Establishments			P	P	P
Sexually Oriented Business		P	P	P	P
Standalone ATM/Vending			P	P	P
Storage, Enclosed		S	P	P	P
Storage, Open		S	P	P	P
Telecommunication Towers			P	P	P
Temporary Uses			P	P	S
Vehicle, Repair Facility		P	P	P	P
Vehicle, Sales		P	P	P	P
Warehousing, General		P	P	P	P
Wholesale, General		P	P	P	P
Wholesale/Retail Greenhouses or Plant Nurseries			P	P	P
Wholesale Storage and Sale of Fuel and Petroleum Products			P	P	P

NZ 1: Noise Zone One (<64 dB)

NZ 2: Noise Zone Two (65 dB – 74 dB)

NZ 3: Noise Zone Three (>75 dB)

APZ1: Accident Potential Zone One

P = Land use is permitted in the District

S = Land use requires a Special Use Permit to be permitted in the District

§ 154.085 AICUZ OVERLAY DISTRICT.

The purpose of the Air Installation Compatible Use Zones (AICUZ) Overlay District is to identify properties located within the proximity of Marine Corps Auxiliary Landing Field Bogue as identified in the AICUZ Requirements Update Marine Corps Air Station Cherry Point, NC dated December 18, 2001. The overlay district shall apply to any property located within this area as shown on the official zoning map. Areas identified in this overlay district include Accident Potential Zone 1 (APZ1), Clear Zone (CZ) and Noise Zones 1, 2 and 3. The following requirements apply in addition to the requirements of the underlying zoning district:

- A. *Disclosure for all property transfers and leases for greater than 90 days.* The local disclosure statement is required for all property transfers and for leases greater than 90 days. All properties located in the AICUZ Overlay District are required to disclose the proximity to Bogue Field prior to transfer. See Sample Disclosure Form.
- B. *List of permitted and special uses.* Accident Potential Zone 1 (APZ1), Clear Zone (CZ) and Noise Zones 1, 2 and 3 have been included in the Table of Permitted and Special Uses – AICUZ Overlay District. Permitted uses may be developed, providing that the use meets the zoning requirements for the underlying zoning district and other requirements of this ordinance. If the use is listed as a special use in Noise Zone 1, 2 or 3, a special use permit must be secured for the specific request.
- C. *Subdivision plats.* All subdivision plats with any lots located within the AICUZ Overlay District shall have those properties designated that are located within any AICUZ Zone or noise zone. The following statement shall be included on the final subdivision plat:

*Air Installation Compatible Use Zones Disclosure
This subdivision is located in proximity to Marine Corps Auxiliary
Landing Field Bogue, an active military training airfield. Accordingly, this
development and its home sites may be located within AICUZ zones or
noise zones as identified on the Bogue Zoning Map of the AICUZ Overlay
District. Contact the Town of Bogue for additional information.*
- D. *Building permits.* A disclosure form is required to be signed by the property owner or his agent prior to the issuance of a building permit for any new or added construction within the Bogue AICUZ Overlay District. See attached Sample Disclosure Form for use prior to issuance of building permit.
- E. *Nonconforming uses.* Uses located within the AICUZ Overlay District that existed as a conforming use prior to the adoption of this section will be allowed to continue or expand. Those uses may be replaced if damaged or destroyed.

Air Installation Compatible Use Zones Disclosure Form

For use prior to building permit

The property at the following location:

Parcel Id: _____

Deed Book _____ Page _____

Address: _____

for which a building permit has been requested is situated within the following zones of the Air Installation Compatible Use Zones (AICUZ) of the Marine Corps Air Station (MCAS) Auxiliary Landing Field Bogue.

___ Clear Zone (CZ): Area adjacent to the runway along the flight path of approaching and departing aircraft.

___ Accident Potential Zone One (APZ1): Area adjacent to the Clear Zone on the side farthest from the runway along the flight path of approaching and departing aircraft.

___ Noise Exposure Level 3 (75 dB or Higher): Area of significant noise impact

___ Noise Exposure Level 2 (65 to 74 dB): Area of moderate noise impact

___ Noise Exposure Level 1 (below 64 dB): Area of low noise impact

The Town of Bogue has placed certain use restrictions and requirements on the development of property within the AICUZ footprint. Before developing the above property, you should consult the Town of Bogue to determine what restrictions and requirements have been placed on the subject property.

For properties identified as being within Noise Exposure Level Zones, the Town of Bogue provides information for voluntary methods to reduce noise levels for existing or proposed development.

I, _____, owner/agent of the subject property, hereby certify that the Town of Bogue has informed me that the subject property is located in an Air Installation Compatible Use Zone.

TABLE INSET:

_____ Owner/Agent	_____ Date
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Air Installation Compatible Use Zone Disclosure Form

For use prior to property transfers and leases greater than 90 days

The property at the following location:

Parcel Id: _____

Deed Book _____ Page _____

Address: _____

is situated within the following zones of the Air Installation Compatible Use Zones (AICUZ) of the Marine Corps Auxiliary Landing Field Bogue.

- ___ Clear Zone (CZ): Area adjacent to the runway along the flight path of approaching and departing aircraft.
- ___ Accident Potential Zone One (APZ1): Area adjacent to the Clear Zone on the side farthest from the runway along the flight path of approaching and departing aircraft.
- ___ Noise Exposure Level 3 (75 dB or Higher): Area of significant noise impact
- ___ Noise Exposure Level 2 (65 to 74 dB): Area of moderate noise impact
- ___ Noise Exposure Level 1 (below 64 dB): Area of low noise impact

The Town of Bogue has placed certain use restrictions and requirements on the development of property within the AICUZ footprint. Before purchasing or leasing the above property, you should consult the Town of Bogue to determine what restrictions and requirements have been placed on the subject property.

For properties identified as being within Noise Exposure Level Zones, the Town of Bogue provides information for voluntary methods to reduce noise levels for existing or proposed development.

I, _____, owner/agent of the subject property, hereby certify that I have informed _____, prospective purchaser/lessee/renter, that the subject property is located in an Air Installation Compatible Use Zone.

TABLE INSET:

_____ Owner/Agent	_____ Purchaser/Lessee/Renter	_____ Date
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