

TOWN OF BOGUE, NORTH CAROLINA

CODE OF ORDINANCES

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Local legislation current through an ordinance passed 1-20-2020; and
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CHARTER

**GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION
RATIFIED BILL**

**CHAPTER 286
HOUSE BILL 593**

**AN ACT TO INCORPORATE THE TOWN OF BOGUE AND CONCERNING THE TOWN OF
CHADWICK ACRES.**

The General Assembly of North Carolina enacts:

Section 1. A Charter for the Town of Bogue is enacted to read:

"CHARTER OF THE TOWN OF BOGUE.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"SECTION 1.1. INCORPORATION AND CORPORATE POWERS.

The inhabitants of the Town of Bogue are a body corporate and politic under the name "Town of Bogue." Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"SEC. 2.1. TOWN BOUNDARIES.

Until modified in accordance with law, the boundaries of the Town of Bogue are as follows: BEGINNING at a point on the east line of the Town of Cape Carteret corporate boundary which beginning point is the intersection of the east line of Bayshore Park Subdivision with the south line of Hunting Bay Drive as shown on plats of Bayshore Park Subdivision and Section III of Hunting Bay Subdivision as recorded in Map Book 4, Page 35, Map Book 5, Page 65, and Map Book 25, Page 64, Carteret County Registry; running thence along the east line of Bayshore Park in a southerly direction

1,200 feet more or less to the southwestern most corner of Lot 14, Section III, Hunting Bay Subdivision (Map Book 25, Page 64); thence in an easterly direction along the south line of Lots 12, 13 and 14, Section III, Hunting Bay, 400 feet, more or less, to the southeast corner of Lot 12, Section III, Hunting Bay; thence along the west boundary of Sections III and I of Hunting Bay in a southerly direction to the north line of Park Avenue at the southwest corner of Lot 20, Section I, Hunting Bay (Map Book 14, Page 88); thence crossing Park Avenue in a southerly direction and continuing along the west boundary of Section I of Hunting Bay to the northwest corner of the Hunting Bay recreational area as shown on a plat recorded in Map Book 14, Page 88; thence continuing in a southerly and southeasterly direction with the recreational area lot to the high water mark of Bogue Sound; thence with the eastern boundary of Hunting Bay and Bogue Sound in a northerly, easterly, and northeasterly direction to the southwest corner of the United States Marine Corps Air Field 'Bogue'; thence in an easterly direction with the south boundary of the United States Marine Corps property known as Bogue Air Field and along the high water mark of Bogue Sound in a northeasterly and easterly direction to Goose Creek; thence in a northerly, northwesterly, northeasterly, and easterly direction with the high water mark of Goose Creek to the southwestern most corner of Goose Creek Subdivision as shown on a plat of the same recorded in Map Book 4, Page 10, Carteret County Registry; thence continuing northwesterly and northerly down the center of the west prong of Goose Creek and along the east line of Okla Taylor to North Carolina Highway 24; thence crossing North Carolina Highway 24 and continuing with the branch of the west prong of Goose Creek in a northerly direction and along the east line of Okla Taylor to the south line of State Road 1118; thence crossing State Road 1118 and continuing with the branch of the west prong of Goose Creek in a northerly direction along the east line of F.E. Toodle (book 304, pg. 263) and Robert H. Davenport (book 494, pg. 130), to the easternmost corner of Stonegate Estates Subdivision; thence with the boundary perimeters of Stonegate Estates Subdivision in a northerly, northwesterly, southerly, westerly, and southerly direction along the outside perimeters of the Stonegate Estate Subdivision to the north line of State Road 1118; thence with the north line of State Road 1118 in a westerly direction to the southeast corner of the Bethlehem Methodist Church Cemetary, and continuing in a northerly, westerly and southerly directions along the perimeter of the Bethlehem Methodist Church Cemetary to the north line State Road 1118; thence in a westerly direction with the north line of State Road 1118 approximately 400 feet to the common corner between the Croatan National Forest and the William V. Pritchett property at the north line of State Road 1118; thence along the common boundary of Croatan National Forest and the properties of William V. Pritchett and George Tootle in a northerly direction to the common corner of the W. B. McLean Estate and the Croatan National Forest; thence in a westerly and southwesterly direction along the south line of the W. B. McLean Estate Property and along the north lines of the Smith and Ahern properties approximately 2500 feet more or less to the common corner of the W. B. McLean estate and the property line of L. B. and Herbert Page (formerly Croatan National Forest Property); thence with the L.B. and Herbert Page property lines in a southerly direction to the north boundary of Lake Arthur Subdivision; thence in a westerly direction along the north line of the Lake Arthur Subdivision to the common corner of the L.B. and Herbert Page property and the north boundary of the Lake Arthur subdivision; thence along the common boundary between the property of L.B. Page, Herbert Page and Joel Taylor, in a northwesterly direction to the W.B. McLean south line; thence in a westerly direction approximately 300 feet to the northwest corner of Joel Taylor (now or formerly); thence in a southeasterly direction along the west line of the W.B. McLean Estate (Book 628, Page 66) to the southeast corner of the W.B. McLean Estate; thence continuing westerly

along the south line of W.B. McLean and Paxton M. Holz (Book 629, Page 418) to the north line of section A of Quail Wood Acres Subdivision (Map Book 15, Page 55) and the easterly extension of the same; thence along the east line of Quail Wood Subdivision southerly to the Southeast corner of Quail Wood Subdivision; thence Westerly along the south line of Quail Wood Subdivision to the east line of Fox Forest Subdivision; thence Southerly with Fox Forest Subdivision to North Carolina Highway 24, the eastern limits of the Town of Cape Carteret; thence Southerly and crossing Highway 24 and with the Cape Carteret limits to the point of beginning; and excluding Fox Forest and Quail Wood Subdivisions herewith.

“SEC. 2.2. SURVEY.

The Town Board is authorized to cause to be completed a survey of the above described property by a registered land surveyor or engineer and to adopt the survey by resolution as the official map of the boundaries of the Town. Upon adoption and recordation of the same in the Carteret County Register of Deeds, the same shall become the official plat or map of the Town boundaries.

**“CHAPTER III.
“GOVERNING BODY.**

“SEC. 3.1. STRUCTURE OF GOVERNING BODY; NUMBER OF MEMBERS:

The governing body of the Town of Bogue is the Town Council which shall have five members:

“SEC. 3.2. MANNER OF ELECTING BOARD.

The qualified voters of the entire Town shall elect the members of the Council.

“SEC. 3.3. TERM OF OFFICE OF COUNCIL MEMBERS.

Members of the Town Council are elected to four-year terms, except at the initial election in 1995, the three highest vote getters shall be elected to four-year terms, and the next two highest vote getters shall be elected to two-year terms.

“SEC. 3.4. SELECTION OF MAYOR; TERM OF OFFICE.

The qualified voters of the entire Town shall elect the Mayor. A Mayor shall be elected in 1995 and biennially thereafter for a two-year term.

"SEC. 3.5. TAKING OFFICE; VACANCY.

After successors are elected and qualified, the new Mayor and/or newly elected board members shall take office at the end of the business session of the first regularly scheduled meeting of the Board of Commissioners following the election. If a vacancy occurs in the office of mayor or commissioner, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the board of commissioners.

Cross-reference:

Taking office; vacancy, see § 31.01

**"CHAPTER IV.
"ELECTIONS.****"SEC. 4.1. CONDUCT OF TOWN ELECTIONS.**

The Town Council shall be elected on a nonpartisan basis and the results determined by the plurality method as provided by G.S. 163-292.

**"CHAPTER V.
"ADMINISTRATION.****"SEC. 5.1. MAYOR-COUNCIL PLAN.**

The Town of Bogue operates under the Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter 160A of the General Statutes."

Sec. 2. Until members of the Town Council are elected in 1995 and qualify in accordance with the Town Charter and the law of North Carolina, Harold L. Shipp, P.M. Russell, Charles Wilton, William D. Guthrie, Sr., and Gene Riggs shall serve as members of the Town Council. They shall appoint a Mayor to serve until a Mayor is elected and qualifies.

Sec. 3. From and after the effective date of this act, the citizens and property in the Town of Bogue shall be subject to municipal taxes levied for the year beginning January 1, 1995, and for that purpose the Town shall obtain from Carteret County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1995, and the businesses in the Town shall be liable for privilege license tax from the effective date of the privilege license tax ordinance, The Town may adopt a budget ordinance for fiscal year 1995-96 without following the timetable in the Local Government Budget and Fiscal Control Act.

Sec. 4. At a date in September of 1995 established by the Carteret County Board of Commissioners, the Carteret County Board of Elections shall conduct a special election for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Bogue, the question of whether or not such area shall be incorporated as the Town of Bogue. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

Sec. 5. In the election, the question on the ballot shall be:

“[] FOR [] AGAINST
Incorporation of the Town of Bogue”.

Sec. 6. In the election, if a majority of the votes are cast “For incorporation of the Town of Bogue”, Sections 1 through 3 of this act shall become effective on the date that the Carteret County Board of Elections certifies the results of the election. Otherwise, those sections shall have no force and effect.

Sec. 7. If a majority of the voters approve the incorporation of Bogue, the election of the Town Council and the Mayor shall take place at an election held on November 7, 1995. The Carteret County Board of Elections shall establish a special candidate filing period in lieu of that provided by Chapter 163 of the General Statutes.

Sec. 7.1. The area described as the corporate limits of the Town of Chadwick Acres in Chapter 1014 of the Session Laws of 1961 shall be considered an incorporated municipality for the purposes of U.S. 160A-36(b)(3) and G.S. 160A- 48(b)(3).

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 1995.

DENNIS A. WICKER

Dennis A. Wicker
President of the Senate

HAROLD J. BRUBAKER

Harold J. Brubaker
Speaker of the House of Representatives

Editor's note:

G.S. §§ 160A-36(b)(3) and 160A-48(b)(3) were repealed by S.L. 2011-396 §§ 1 and 7, respectively.

TITLE I: GENERAL PROVISIONS

Chapter

**10. GENERAL CODE CONSTRUCTION; GENERAL
PENALTY**

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
- 10.08 Reference to other sections
- 10.09 Reference to offices
- 10.10 Errors and omissions
- 10.11 Official time
- 10.12 Reasonable time; computing time
- 10.13 Ordinances repealed
- 10.14 Ordinances unaffected
- 10.15 Effective date of ordinances
- 10.16 Repeal or modification of ordinances
- 10.17 Ordinances which amend code; effect of new ordinances
- 10.18 Section histories; section headings; statutory references

- 10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Bogue shall be designated as the *Code of Bogue, North Carolina* and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHARTER. The Charter of the Town of Bogue, North Carolina.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision and adoption of new titles, chapters or sections.

COMPUTATION OF TIME. The time within which an act is to be done shall be computed by excluding the first and the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

COUNCIL. The Mayor and Council, or governing body, of the Town of Bogue, North Carolina.

COUNTY. The County of Carteret, North Carolina.

G.S. or GENERAL STATUTES. The latest edition of the **GENERAL STATUTES** of North Carolina, as amended.

GENDER. Words importing the masculine gender shall include the feminine and neuter.

GOVERNOR. The Governor of North Carolina.

JOINT AUTHORITY. All words giving a joint authority to three or more persons or officers shall be construed as giving the authority to a majority of persons or officers.

MAY. The act referred to is permissive.

MONTH. A calendar month.

NUMBER. Words used in the singular include the plural, and the plural includes the singular number.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words *SWEAR* and *SWORN* shall be equivalent to the words *AFFIRM* and *AFFIRMED*.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT. An officer, office, employee, commission or department of this municipality unless the context clearly requires otherwise.

OFFICIAL TIME STANDARD. Whenever certain hours are named in this code, they shall mean standard time or daylight saving time as may be in current use in this town.

OWNER. Applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of the property.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms *PERSON* or *WHOEVER* as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PERSONAL PROPERTY. Every species of property except real property.

PRECEDING or FOLLOWING. Next before or next after, respectively.

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements and hereditaments.

SHALL. The act referred to is mandatory.

SIDEWALK. Any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of North Carolina.

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STREET. Any public way, road, highway, street, avenue, boulevard, parkway, dedicated alley, lane, viaduct, bridge and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TENANT or OCCUPANT. When applied to a building or land, shall include any person who occupies the whole or a part of the building or land, whether alone or with others.

TENSE. Words used in the past or present tense include the future as well as the past and present.

TOWN. The Town of Bogue, in the County of Carteret, North Carolina.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

ZONING ENFORCEMENT OFFICER. One designated by the Council.

Statutory reference:

Computation of time, see G.S. § 1-593

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this town shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) **AND or OR.** Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) **Acts by assistants.** When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of an act by an authorized agent or deputy.

(C) **Gender; singular and plural; tenses.** Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this town exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, that spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this town for the transaction of all municipal business.

§ 10.12 REASONABLE TIME; COMPUTING TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

(A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(B) Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this code;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness;

(3) Any contract or obligation assumed by the town;

(4) Any ordinance fixing the salary of any town officer or employee;

(5) Any right or franchise granted by the town;

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving and the like, any street or public way in the town;

(7) Any appropriation ordinance;

(8) Any ordinance which, by its own terms, is effective for a stated or limited term;

- (9) Any ordinance providing for local improvements and assessing taxes therefor;
- (10) Any zoning ordinance or zoning map amendment;
- (11) Any ordinance dedicating or accepting any subdivision plat;
- (12) Any ordinance describing or altering the boundaries of the town;
- (13) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this code;
- (14) Any ordinance levying or imposing taxes not included herein;
- (15) Any ordinance establishing or prescribing street grades in the town; and/or
- (16) Any personnel ordinance.

(C) Nor shall any ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Statutory reference:

Statutes not repealed by General Statutes, see G.S. § 164-7

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND CODE; EFFECT OF NEW ORDINANCES.

(A) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection, or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence that the subsequent ordinances numbered or omitted are readopted as a new code by the town.

(B) Amendments to any of the provisions of the code shall be made by amending provisions by specific reference to the section number of this code in language substantially similar to the following: "Section _____ of the Code of Ordinances, Town of Bogue, North Carolina, is hereby amended as follows...." The new provisions shall then be set out in full as desired.

(C) If a new section not heretofore existing in the code is to be added, language substantially similar to the following shall be used: "The Code of Ordinances, Town of Bogue, North Carolina, is hereby amended by adding a section, to be numbered _____, which section shall read as follows:...." The new section shall then be set out in full as desired.

(D) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

§ 10.18 SECTION HISTORIES; SECTION HEADINGS; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and the most recent three amending ordinances, if any, are listed following the text of the code section. *Example:* (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. *Example:* (G.S. § 160A-11) (Ord. 10, passed 1-17-1980; Am. Ord. 20, passed 1-1-1985)

(2) A statutory cite set forth as a "statutory reference" following the text of the section indicates that the reader should refer to that statute for further information. *Example:*

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see G.S. §§ 132-1 et seq.

(C) If a section of this code is derived from the prior code of ordinances of the town, the prior code section number shall be indicated in the history by "(Prior Code, § ____)." The history notes following sections and the references scattered throughout the code are not part of the code, but are merely for the benefit for the user of the code.

§ 10.99 GENERAL PENALTY.

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

(G.S. § 14-4(a))

Statutory reference:

For provisions concerning enforcement of ordinances, see G.S. § 160A-175

TITLE III: ADMINISTRATION

Chapter

- 30. COMBINED PLANNING BOARD/BOARD OF ADJUSTMENT**
- 31. CHARTER AMENDMENTS**
- 32. PETTY CASH AND FINANCIAL CONTROLS**
- 33. EMERGENCY MANAGEMENT**

CHAPTER 30: COMBINED PLANNING BOARD/BOARD OF ADJUSTMENT

Section

- 30.01 Establishment and jurisdiction
- 30.02 Composition and term of office
- 30.03 Organization, rules, meetings and records
- 30.04 General powers and duties
- 30.05 Subdivision regulations
- 30.06 Zoning ordinance
- 30.07 Miscellaneous powers and duties
- 30.08 The Planning Board function as the Zoning Board of Adjustment
- 30.09 Conflicts and validity

§ 30.01 ESTABLISHMENT AND JURISDICTION.

There is hereby established a Board to be known as the Bogue Planning Board whose jurisdiction shall include the area within the territorial jurisdiction of the Town of Bogue as now or hereafter established.

(Ord. passed 5-18-1999)

§ 30.02 COMPOSITION AND TERM OF OFFICE.

(A) The Town Planning Board/Board of Adjustment shall consist of five regular members and two alternates. Five regular members and two alternates shall reside inside the corporate limits of the Town of Bogue and shall be appointed by the Town Council.

(B) The alternate members shall have equal rights, privileges and duties with the other members serving in the absence of the regular members.

(C) Two of the initial members of the Board shall be appointed for a term of one year, two members for terms of two years and one member for a term of three years. Two alternates shall be appointed for terms of two years. Their successors shall be appointed for terms of three years. In the case of a vacancy occurring during a term, the Town Council shall appoint a replacement for the unexpired portion of the term.

(Ord. passed 5-18-1999; Am. Ord. passed 12-14-2009)

§ 30.03 ORGANIZATION, RULES, MEETINGS AND RECORDS.

Within 30 days after appointment the Planning Board shall meet and elect a chair and create and fill offices as it may determine. The term of the chair and other officers shall be one year, with the eligibility for reelection. The Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations which shall be public record. The Board shall hold only meetings deemed necessary to dispose of its pending business. The Board will hold at least one meeting per quarter, and all of its meetings shall be open to the public. The Chairperson will notify the Planner when a meeting is necessary. The Planner will notify the Board by mail and furnish the Board a copy of the agenda. There shall be a quorum of three members for the purpose of taking any official action.
(Ord. passed 5-18-1999)

§ 30.04 GENERAL POWERS AND DUTIES.

(A) It shall be the duty of the Town of Bogue Planning Board to review and recommend plans so as to bring about a coordinated and harmonious development of the area.

(B) The Town of Bogue Planning Board is hereby designated as the Planning Agency for the preparation of a zoning plan for the Town of Bogue under the authority of G.S. § 160A-387.

(C) In addition, the Planning Board is empowered:

(1) To acquire and maintain in current form basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions;

(2) To identify needs and problems growing out of those needs;

(3) To determine objectives to be sought in development of the area;

(4) To establish principles and policies for guiding action in development of the area;

(5) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social and economic development of the area;

(6) To prepare and recommend to the Town Council ordinances promoting orderly development along lines indicated in the comprehensive plan and advise it concerning proposed amendments of ordinances;

(7) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area and ordinances adopted in furtherance of the plan;

(8) To keep the Town Council and the general public informed and advised as to these matters;
and

(9) To perform any other duties that may lawfully be assigned to it.
(Ord. passed 5-18-1999)

§ 30.05 SUBDIVISION REGULATIONS.

(A) The Planning Board shall prepare and submit to the Bogue Town Council for its consideration and possible adoption regulations controlling the subdivision of land in accordance with the provisions of G.S. Part 2 of Article 19 of Chapter 160A as amended. It shall review, from time to time, the effectiveness of the regulations and may make proposals to the Town Council for amendment or other improvement of those regulations and their enforcement.

(B) In accordance with the provisions of any regulations that are adopted, the Planning Board may review subdivision plats that are submitted and:

(1) Make recommendations to the Town Council concerning plats; and/or

(2) Approve, or approve subject to conditions or deny approval for the plat.
(Ord. passed 5-18-1999)

§ 30.06 ZONING ORDINANCE.

(A) The Planning Board shall prepare and submit to the Town Council for its consideration and possible adoption a zoning ordinance in accordance with the provisions of G.S. Part 3 of Article 19 of Chapter 160A as amended.

(B) The Planning Board may initiate, from time to time, proposals for amendment of the Zoning Chapter, based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Town Council concerning all proposed amendments to the Zoning Chapter. (The Planning Board shall serve as a Board of Adjustment under the Zoning Chapter, hearing appeals, interpreting the chapter, issuing or denying (special-use permits) and/or (conditional-use permits) and granting variances.)
(Ord. passed 5-18-1999)

§ 30.07 MISCELLANEOUS POWERS AND DUTIES.

(A) The Planning Board may conduct public hearings as may be required to gather information for the drafting, establishment and maintenance of the comprehensive plan. Before adopting any plan, it shall hold at least one public hearing thereon.

(B) The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ other means of publicity and education as it may elect.

(C) Members of the Planning Board, when duly authorized by the Bogue Town Council, may attend planning conferences, meetings of planning associations or hearings on pending planning legislation.
(Ord. passed 5-18-1999)

§ 30.08 THE PLANNING BOARD FUNCTION AS THE ZONING BOARD OF ADJUSTMENT.

The Zoning Board of Adjustment is charged with hearing appeals from the Zoning Administrator's decisions; granting in specified circumstances special exceptions, special use permits or conditional use permits under the Zoning Chapter; and issuing variances under the Zoning Chapter, all pursuant to provisions of G.S. Part 3 of Article 19 of Chapter 160A and the Zoning Chapter.
(Ord. passed 5-18-1999)

See page 155 Title XV Land Usage

§ 30.09 CONFLICTS AND VALIDITY.

(A) That all ordinances or parts of ordinances, in conflict with this chapter are hereby repealed to the extent of a conflict.

(B) Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, that declaration shall not affect the validity of this chapter in its entirety or any part thereof other than the part so declared to be unconstitutional or invalid.
(Ord. passed 5-18-1999)

CHAPTER 31: CHARTER AMENDMENTS

Section

31.01 Taking office; vacancy

§ 31.01 TAKING OFFICE; VACANCY.

After successors are elected and qualified, the new Mayor and/or newly elected Council members shall take office at the end of the business session of the first regularly scheduled meeting of the Town Council following the election. If a vacancy occurs in the office of Mayor or Council member, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the Town Council.

(Am. Ord. passed 9-16-1997)

Charter reference:

Taking office; vacancy, see Sec. 3.5

CHAPTER 32: PETTY CASH AND FINANCIAL CONTROLS

Section

- 32.01 General
- 32.02 Petty cash
- 32.03 Internal controls
- 32.04 Countersigned by a designated officer of the town
- 32.05 Disbursement of funds

§ 32.01 GENERAL.

The fiscal affairs of the town shall be governed by the Local Government Finance Act as set forth in G.S. Chapter 159.
(Ord. passed 11-20-2017)

§ 32.02 PETTY CASH.

Petty cash must only be used when the expenditure is clearly for a public purpose and the funds have been appropriated. Expenditures where an employee spends \$50 or less can be reimbursed by the use of petty cash. Petty cash expenditures cannot be used for purchases that exceed the \$50 limit without the prior approval of the Finance Officer or the Deputy Finance Officer.
(Ord. passed 11-20-2017)

§ 32.03 INTERNAL CONTROLS.

The "Internal Controls Policy and Procedures", adopted by the Town of Bogue in October 2017 to ensure proper internal controls and to adequately safeguard the town's assets, will be followed. The policy may be amended from time to time as needed or directed by law.
(Ord. passed 11-20-2017)

§ 32.04 COUNTERSIGNED BY A DESIGNATED OFFICER OF THE TOWN.

Except as otherwise provided by law, all checks or drafts on an official depository, regardless of the amount, must have two signatures: the Finance Officer or the Deputy Finance Officer, and the Town Clerk.

(Ord. passed 11-20-2017)

§ 32.05 DISBURSEMENT OF FUNDS.

(A) In accordance with the Local Government Budget and Fiscal Control Act, G.S. §§ 159-7 *et seq.*, no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town shall be valid unless it bears on its face the certificate of the Finance Officer as follows: "This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act."

(B) No contract, agreement or purchase order shall be valid unless it bears the Finance Officer's certificate as follows: "This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

(Ord. passed 11-20-2017)

CHAPTER 33: EMERGENCY MANAGEMENT ORDINANCE

Sec. 33.1. Purpose.

The purpose of this chapter is to provide an avenue whereby the Mayor of the Town of Bogue can take action, on an emergency basis, to:

- (1) Minimize the possible suffering of citizens or the potential for property damage by limiting access to certain areas.
- (2) Limit the movement of objects or people during certain periods.

Sec. 33.2. Territorial applicability.

This chapter shall apply within the corporate limits of the town.

Sec. 33.3. Determination of state of emergency; restrictions authorized.

- (a) A state of emergency shall be deemed to exist whenever, during times of public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety of property or whenever the occurrence of any such condition is imminent.
- (b) In the event of an existing or threatened emergency which has the potential to endanger the lives, safety, health or welfare of the people within the town or any part thereof, or threatens damage to or destruction of property, the mayor is hereby authorized and empowered to issue a state of emergency declaration declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions hereinafter authorized. The mayor will provide notification to all councilmen as soon as possible after such a declaration has been issued.
- (c) The mayor is hereby authorized and empowered to establish and activate an emergency management organization to respond to the existence of such a state of emergency in order to more effectively protect the lives and property of people within the town.
- (d) The mayor is hereby authorized and empowered to limit by declaration the application of all or any part of such restrictions to any area specifically designated or described within the town and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, councilmen, law enforcement officers, firemen, public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.

Sec. 33.4. Declaration imposing prohibitions and restrictions.

- (a) The mayor, by declaration, may impose the prohibitions and restrictions specified in sections 33.4 through 33.8 in the manner described in those sections. The mayor may impose as many of the specified prohibitions and restrictions as are determined to be necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety and property. The mayor shall recite his findings in the declaration.

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- (b) The declaration shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the declaration to those affected by it, including the media and emergency communications systems. The mayor shall retain a text of the declaration and furnish upon request certified copies of it for use as evidence. The mayor shall immediately notify the county director of emergency services and town councilmen of the issuance of the declaration.

Sec. 33.5. Curfew.

- (a) The declaration may impose a curfew prohibiting, in certain areas and during certain periods, the appearance in public of anyone who is not a member of an exempted class. The declaration shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemptions the mayor finds necessary for the preservation of the public health, safety and welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.
- (b) Unless otherwise specified in the declaration, the curfew shall apply during the specified period each day until the mayor, by additional declaration, removes the curfew.

Sec. 33.6. Restrictions on possession, consumption or transfer of alcoholic beverage.

The declaration may prohibit the possession or consumption of any intoxicating liquor; including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the town described in the declaration. The prohibition, if imposed, may apply to transfers of intoxicating liquor by employees of alcoholic beverage control stores as well as by anyone else within the geographical area described.

Sec. 33.7. Restrictions on possession, transportation and transfer of dangerous weapons and substances.

- (a) The declaration may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance, except lawfully possessed firearms and ammunition. The mayor may exempt from some or all of the restrictions classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety or welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.
- (b) For the purposes of this section, the term "dangerous weapon or substance" means:
- (1) Any deadly weapon, ammunition, incendiary device, explosive, gasoline or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.
 - (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so destructively used.
 - (3) Any part or ingredient in any instrument or substance included above.
- (c) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part thereof as designated in the declaration.

Sec. 33.8. Restrictions on access to areas.

- (a) The declaration may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice or barricade indicating that access is denied or restricted.

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- (b) Areas to which access is denied or restricted shall be designated by police and sheriff and their subordinates when directed and specified in the declaration to do so by the mayor. When acting under this authority, the police, sheriff and their subordinates may restrict or deny access to any area, street, highway or location within the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

Sec. 33.9. Effect of declaration.

- (a) The declaration issued under this chapter may prohibit or restrict all or any of the following:
- (1) Movements of people in public places.
 - (2) The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate.
 - (3) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the declaration.
- (b) The declaration issued under this chapter may direct a voluntary or mandatory evacuation of all or part of the town.
- (c) Rescue or any other emergency services may not be provided dependent upon the nature of the conditions during the time period when the state of emergency declaration is in effect.

Sec. 33.10. Amendments of declaration.

The mayor may amend or extend the declaration issued under this article from time to time, making such modifications as would have been authorized to include in the original declaration.

Sec. 33.11. Removal of prohibitions and restrictions.

The mayor shall, by additional declaration, remove the prohibition and restrictions when it has been determined that the emergency no longer requires them, when emergency conditions have abated or when directed to do so by the town council.

Sec. 33.12. Separate and superseding declarations.

The mayor, in his discretion, may invoke the restrictions authorized by this chapter in separate declaration, and may amend any declaration by means of superseding declaration.

Sec. 33.13. Absence or disability of mayor.

In case of the absence or disability of the mayor, the mayor pro-tem shall have and exercise all of the powers given the mayor by this chapter.

TITLE V: PUBLIC WORKS

[RESERVED]

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC-CONTROL DEVICES**
- 71. TRAFFIC SCHEDULES**
- 72. GOLF CARTS**

CHAPTER 70: TRAFFIC-CONTROL DEVICES

Section

Stop Signs

- 70.01 Vehicles to stop at stop signs
- 70.02 Authority to erect stop signs
- 70.03 Intersections where stop required
- 70.04 Obedience to signs

STOP SIGNS

§ 70.01 VEHICLES TO STOP AT STOP SIGNS.

Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching an intersection where a stop sign has been erected for the lane of travel in which the person is proceeding, when approaching the stop sign shall stop before entering the crosswalk, stop line, or if there is no crosswalk or stop line, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The driver, having stopped in obedience to a stop sign at the intersection, shall proceed cautiously yielding the right-of-way to all vehicles not so obliged to stop which are approaching the intersection.

(Ord. passed 1-21-1997)

§ 70.02 AUTHORITY TO ERECT STOP SIGNS.

The Town Council shall determine those intersections at which drivers of vehicles shall be required to stop at a duly elected stop sign. The Town Council shall further declare which streets or parts of streets shall be designated as through streets, and there shall be a stop sign on each and every street intersecting the through street or intersecting portion thereof, unless the intersection is otherwise controlled by traffic control signals. At the intersection of two through streets or at the intersection of a through street and a heavy traffic street not so designated, the Town Council shall likewise be authorized to erect stop signs at the approaches of either of the streets.

(Ord. passed 1-21-1997)

§ 70.03 INTERSECTIONS WHERE STOP REQUIRED.

When the Town Council has determined and designated intersections where vehicles shall be required to stop, the Town Council shall cause a stop sign at the intersection to be erected. Signs shall be used which have been approved by the North Carolina Board of Transportation.
(Ord. passed 1-21-1997)

§ 70.04 OBEDIENCE TO SIGNS.

Any person failing or refusing to comply with directions indicated on any sign for the control or direction of traffic erected or placed in accordance with this chapter when so placed or erected shall be guilty of a misdemeanor and punished in accordance with G.S. § 14-4 by imprisonment for not more than 30 days or a fine not exceeding \$50.
(Ord. passed 1-21-1997)

CHAPTER 71: TRAFFIC SCHEDULES

Section

Schedule I. Stop intersections

SCHEDULE I. STOP INTERSECTIONS.

The following streets are designated as stop intersections, requiring all vehicles to stop before entering those intersections.

<i>Intersection</i>	<i>Yield Street</i>	<i>Through Street</i>
Barrington Ridge Road and Bogue Loop Road	Barrington Ridge Road	Bogue Loop Road
Bayshore Drive and Hunting Bay Drive	Hunting Bay Drive	Bayshore Drive
(East) Millicent Court and Barrington Ridge Road	(East) Millicent Court	Barrington Ridge Road
(West) Millicent Court and Barrington Ridge Road	Barrington Ridge Road	(West) Millicent Court
Franklin Place and Barrington Ridge Road	Franklin Place	Barrington Ridge Road
Forest Line Drive and Bogue Loop Road	Forest Line Drive	Bogue Loop Road
Forest Line Drive and Creek Line Drive	Forest Line Drive	Creek Line Drive
Fox Drive and Highway 24	Fox Drive	Highway 24
Chimney Branch Road and Highway 24	Chimney Branch Road	Highway 24
Lake Arthur Drive and Barrington Ridge Road	Lake Arthur Drive	Barrington Ridge Road
Lake Arthur Drive and Millicent Court	Millicent Court	Lake Arthur Drive
Park Avenue and Hunting Bay Drive	Park Avenue	Hunting Bay Drive

Bogue - Traffic Code

<i>Intersection</i>	<i>Yield Street</i>	<i>Through Street</i>
(North) Pine Needle Circle and Hunting Bay Drive	(North) Pine Needle Circle	Hunting Bay Drive
(South) Pine Needle Circle and Hunting Bay Drive	(South) Pine Needle Circle	Hunting Bay Drive
(West) Bogue Loop Road and Highway 24	(West) Bogue Loop Road	Highway 24
Wild Oak Drive and Bogue Loop Road	Wild Oak Drive	Bogue Loop Road
Bayview Court and Hunting Bay Drive	Bayview Court	Hunting Bay Drive

(Ord. passed 6-15-2015)

CHAPTER 72: GOLF CARTS

Approved October 2019

Section

- 72.01 Authority to regulate
- 72.02 Operation on public streets and roads
- 72.03 Registration prior to usage
- 72.04 Enforcement

72.99 Penalty

Appendix A: Town of Bogue Golf Cart Owner Registration

§ 72.01 AUTHORITY TO REGULATE.

(A) Authorization. Pursuant NC GS 160 A-300.6, the town is authorized, by ordinance, to require the registration of and to regulate the operation of, golf carts upon public streets, roads, and highways within the town where the speed limit is 35 miles per hour or less.

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

GOLF CART A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 25 miles per hour. (Ord. passed 3-21-2011)

DRIVER'S LICENSE A valid license issued to operate a motor vehicle issued by North Carolina or any other state.

FINANCIAL RESPONSIBILITY Liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.

OPERATOR Only persons over 16 years of age and holding a valid driver's license may operate a golf cart on roads.

§ 72.02 OPERATION ON PUBLIC STREETS AND ROADS.

It shall be unlawful to operate a golf cart on a public street, road, or highway right-of-way within the town except in accordance with the following provisions:

(A) Golf carts shall not be operated on or alongside a public road or street with a posted speed limit greater than 35 miles per hour.

(B) Golf carts may cross a road with a posted speed limit greater than 35 mph. However, once this segment of road has been travelled, the golf cart is still required to travel only on or along a roadway with a speed limit of 35 mph or less. Golf carts must cross in a manner that is the most direct route in order to decrease crossing distance, i.e. no riding along a road or crossing at an angle.

(C) Any person who operates a golf cart must be responsible for all liability associated with operation of the golf cart and must have liability insurance coverage which will cover the use of a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.

(D) Any person who operates a golf cart must be at least sixteen (16) years of age or older. No person may operate a golf cart unless that person is licensed to drive upon the public streets, roads and highways of North Carolina and then, only in accordance with such valid driver's license. Golf cart operators must carry their driver's license on their person at all times while operating a golf cart on public roads.

(E) Any person who operates a golf cart on public streets and roads must adhere to all applicable State and local laws, regulations and ordinances, including but not limited to those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.

(F) The operator of the golf cart shall comply with all traffic rules and regulations adopted by the State of North Carolina and the County/Town which governs the operation of motor vehicles.

(G) An operator may not allow the number of people in the golf cart at any one time to exceed the maximum capacity specified by the manufacturer. The operator shall not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags.

1. In no instance shall a golf cart be operated at a speed greater than 25 miles per hour. No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions.

(H) Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.

(I) Golf carts must park in designated spaces in such a manner that multiple golf carts can utilize the space. All parking rules and limits apply. No parking on sidewalks is allowed.

(J) Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a reflective markings on all four sides that are compliant with North Carolina law.

(K) Golf carts without lights may be operated only during daylight hours. Golf carts meeting the requirements set forth below may operate at any time:

1. Golf carts having two (2) operating headlights, one on each side of the front of the golf cart and two (2) operating tail lights, one on each side of the rear of the cart, all four (4) lights must be visible from a distance of 500 feet; and
2. If a mechanical turn signal indicator is not installed, then hand signals are required for turns.

§ 72.03 REGISTRATION PRIOR TO USAGE

(A) All golf cart owners must complete a golf cart registration form and submit it to the town prior to operation of golf carts under this chapter.

(B) Each owner must have proof of ownership, and liability insurance, and a completed Waiver of Liability, releasing the Town from liability that may arise as a result of operation of a golf cart inside Town. These documents must be in the golf cart at all times while in operation on public roads.

(C) All golf carts must meet the requirements or minimum standards of safety equipment as set forth above in this Ordinance.

(D) All golf cart operators must present a valid driver/s license while operating a golf cart on a public road.

(E) The registration sticker shall be valid for no more than one year and will remain attached to the front driver side of a golf cart operated on a public road.

(F) Lost or Stolen Permit/Stickers are the responsibility of the owner and must be replaced before the golf cart is operated on a public road.

§ 72.04 ENFORCEMENT.

Violation of the provisions of this Ordinance shall constitute an infraction in accordance with Chapter 20 of the North Carolina General Statutes. Persons who, while driving golf carts on public streets or roads within the Town, violate the "Rules of the Road" applicable to motor vehicles generally shall be subject to the same penalties applicable to the operators of other motor vehicles.

§ 72.99 PENALTY.

Any act constituting a violation of this chapter shall subject the offender to a civil penalty of \$50, plus the court costs and attorney fees incurred by the town. If the offender fails to pay the penalty within 30 days of receiving written notice of the violation, the penalty may be recovered by the town in a civil action in the nature of debt. Three violations of this chapter within a 12-month period will be cause for revocation of the existing registration for six consecutive months by a commissioner of the town.

**GOLF CART OWNER REGISTRATION
TOWN OF BOGUE, NC**

Golf Cart Owner's name(s): _____

Owner's Physical Address: _____

City/Town: _____ State: _____ Zip: _____

Owner's Mailing Address: _____

City/Town: _____ State: _____ Zip: _____

Owner's Telephone No. Daytime: () _____ Night time : () _____

Owner's Driver's License Number: _____ State: _____

Make of Golf Cart (Mfg): _____

Color of Golf Cart: _____ Model (Year): _____

Serial Number of Golf Cart: _____

Liability Insurance (Company, Policy Number, Insured): _____

Please Attach Copies of Liability Insurance AND Driver's License

I have received, read and understood the "Golf Cart Ordinance." I have paid the registration fee for the above cart and agree to additional assessments as may be required in support of this ordinance. I acknowledge that I will assume all liability, and am fully responsible for the operation of the above cart on the streets and roads in the Town of Bogue. I also acknowledge that the Town of Bogue, in providing this privilege, is in no way endorsing the operation of this cart on the streets and roads, and does not and will not assume any liability in the operation of the cart. I agree to indemnify and hold harmless the Town of Bogue for any and all liability arising from the use of this golf car/cart. **I also understand that the Carteret County Sheriff's interpretation of all the rules and regulations are final.** I will insure that the permit sticker will remain attached to the front driver's side of the cart at all times. I furthermore insure that I will obey all the rules and regulations set forth by the Town of Bogue concerning the operation of a cart within town limits.

Owner's Signature _____
Date

For Town Use Only

Approved By Town of Bogue Official: _____

Permit Number: _____ Fee: \$10.00

Signature _____
Date

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. STREETS AND SIDEWALKS**
- 91. PUBLIC HEALTH NUISANCES**
- 92. FIRE SAFETY INSPECTIONS**
- 93. NOISE ORDINANCE**

CHAPTER 90: STREETS AND SIDEWALKS

Adopted 4/15/2024

Section

- 90.01 Street Deposit
- 90.02 Obstructions to stormwater ditches and requiring culverts
- 90.99 Penalty

§90.01 STREET DEPOSIT

- (A) For the purpose of this section, **Land Disturbing Activity** is defined as using any type of logging equipment or commercial clearing equipment, bulldozers, backhoes, ditch diggers, logging trucks, cement or mixer trucks or other heavy type equipment. Specifically excluded are bush hogs, riding mowers or garden-type tractors.
- (B) Prior to any land disturbing activity taking place on any lot or parcel within the zoning jurisdiction of the town, a security deposit in the amount of \$750 must be posted to cover any damages or problems that may occur as a result of the clearing or construction. This sum shall be deposited with the Town Clerk at the time the zoning permit is issued.
- (C) The Street Manager will check the property both before and after clearing or construction. Upon their certification that the street, shoulder, and right-of-way have suffered no damages or that the damages have been corrected, and that no drainage problems which may require culverts have been created, the security deposit will be refunded in accordance with this section. Where culverts are needed to ensure proper drainage, a minimum 15 inch culvert shall be properly installed. Should damages or drainage problems not be corrected to the satisfaction of the Street Manager, this sum will be forfeited and the owner billed for any additional charges. A request for a refund must be made with a copy of the certificate of occupancy by the property owner and/or developer no later than six months after issuance of certificate of occupancy. If the request along with the certificate of occupancy is not received within the six month period, the deposit will be forfeited.
- (D) This section shall be effective upon adoption by the Town Council.

§90.02 OBSTRUCTIONS TO STORMWATER DITCHES AND REQUIRING CULVERTS

(A) *Prohibition against obstructions of streets, ditches, and swales.* It shall be unlawful for any person, firm, or corporation to place or cause to be placed any vehicle, structure, object, or material of any kind in any of the streets or rights-of-way of the Town of Bogue which shall obstruct the free passage of persons and vehicles. It shall likewise be unlawful for any person, firm, or corporation to place any topsoil, dirt, debris, trash or other materials on or within any town street rights-of-way, swales or drainage ditches within the town street rights-of-way, which shall block or obstruct the flow of drainage or surface waters within ditches or swales so as to prevent the free flow of water on or over the street rights-of-way of the Town of Bogue or thereby cause flooding or the accumulation of stagnant water and/or saturation of the soils and elevation of the ground water.

(B) *Required culverts to adjoining properties.* For all new construction or improvements to existing structures and uses which require a driveway connection from a town right-of-way or street to adjoining or abutting property, the owner or developer of the property shall first be required to install a culvert within the ditch or swale providing stormwater drainage for the lot before the construction of the driveway or access. The culvert shall have a minimum diameter of 15 inches and shall be so constructed so that the driveway connection continues to provide the unobstructed flow of water within the swale or ditch as previously allowed prior to the construction of the driveway connection.

§90.99 PENALTY

After the effective date of these regulations, any person who, being the owner or the agent of any land located within the jurisdiction of these regulations, intentionally violates these regulations, shall be guilty of a misdemeanor, for the conviction of which, the maximum penalty permitted by law may be imposed. Each day's continuing violation is a separate and distinct offense.

CHAPTER 91: PUBLIC HEALTH NUISANCES

Section

General Provisions

- 91.01 Conditions constituting a public nuisance
- 91.02 Investigation and determination of conditions
- 91.03 Notice of public nuisance
- 91.04 Owner may request hearing
- 91.05 Abatement by town
- 91.06 Costs of removal by owner; lien

Nuisance/Junked Vehicle Regulations

- 91.10 Intent
- 91.11 Definitions
- 91.12 Administration
- 91.13 Abandoned vehicle unlawful; removal authorized
- 91.14 Nuisance vehicle unlawful; removal authorized
- 91.15 Junked motor vehicle regulated; removal authorized
- 91.16 Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements; appeals
- 91.17 Exceptions to prior notice requirement
- 91.18 Removal of vehicles; post-towing notice requirements
- 91.19 Right to probable cause hearing before sale or final disposition of vehicle
- 91.20 Redemption of vehicle during proceedings
- 91.21 Sale and disposition of unclaimed vehicle
- 91.22 Conditions on removal of vehicles from private property
- 91.23 Protection against criminal or civil liability
- 91.24 Exceptions
- 91.25 Unlawful removal of impounded vehicle

- 91.99 Penalty

GENERAL PROVISIONS**§ 91.01 CONDITIONS CONSTITUTING A PUBLIC NUISANCE.**

The existence of any of the following conditions on any lot, parcel of land or street right-of-way within the corporate limits of the Town of Bogue is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(A) The uncontrolled growth of weeds or grass to a height in excess of 24 inches causing or threatening to cause a hazard detrimental to the public health or safety. In order to be detrimental to the public health or safety, the uncontrolled growth must be located less than 100 feet from any abutting street, less than 100 feet from any adjoining property line (if a structure is located on an adjoining property) or less than 50 feet from any occupied dwelling;

(B) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, the accumulation of stagnant water or the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may become dangerous or prejudicial to the public health;

(C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by inhabitation therein or rates, mice, snakes or vermin which is or may be dangerous or prejudicial to the public health;

(D) Any placement or accumulation of topsoil, dirt, debris, trash or other materials on or within street rights-of-way, swales or drainage ditches within public or town rights-of-way, which block the flow of drainage or surface waters or cause the accumulation of stagnant water, thereby tending to either cause flooding of adjoining properties, substantial saturation of the soils and the elevation of ground water, or the accumulation of stagnant water, resulting in or tending to cause the breeding of mosquitos, the failure of septic tank systems, and the flooding of streets, driveways and yards, so that the same becomes dangerous or prejudicial to the public health; and

(E) Any condition detrimental to the public health which violates the rules and regulations of the Carteret County Health Department.

(F) *Open storage.*

(1) *Definition.* For the purposes of this section, **OPEN STORAGE** means the placement in an unenclosed area in a residential zoning district for a continuous period in excess of 24 hours of an item which is not customarily used or stored outside and/or which is not made of a material that is resistant to damage or deterioration from exposure to the outside environment; or a motor vehicle, recreational vehicle or trailer that is operative and does not have a valid state registration.

(2) (a) Open storage in a residential district shall not be permitted in the front yard, in a carport, or an unenclosed front porch, driveway, or any open and unenclosed area visible from any public right-of-way.

(b) Open storage in the back yard of any residential lot shall be screened from adjacent properties by a six-foot high, solid wooden screening fence or by a landscaping screen wall consisting of shrubs which at maturity will reach a height of six feet.

(Ord. passed 10-15-1996; Am. Ord. passed 10-21-2013) Penalty, see § 91.99

§ 91.02 INVESTIGATION AND DETERMINATION OF CONDITIONS.

The Mayor as to the conditions set forth in divisions (A), (B), (C) and (E) of § 91.01 above, or the Street Commissioner or Zoning Officer with regard to the conditions set forth in division (D) of § 91.01 above, upon notice from any person or upon the Mayor, Zoning Officer, or Street Commissioner's own

investigation of the existence of any of the conditions described in § 91.01 above, shall determine whether, in fact, conditions exist which constitute a public nuisance as set forth in § 91.01.
(Ord. passed 10-15-1996)

§ 91.03 NOTICE OF PUBLIC NUISANCE.

Upon a determination that conditions constituting a public nuisance exist, the appropriate official in § 91.02 above shall notify, by certified mail, the owner, occupant or person in possession of the premises in question or believed to have caused the condition, or the conditions constituting the public nuisance and shall order the prompt abatement thereof within 14 days from the receipt of the written notice.

(Ord. passed 10-15-1996)

§ 91.04 OWNER MAY REQUEST HEARING.

Within seven days from receipt of the notice provided for in § 91.03 above, the owner, occupant or person believed to have caused the conditions may request a hearing before the appropriate official designated in § 91.02 above. The official shall fix a time for a hearing and the initial abatement order shall be temporarily suspended pending the hearing. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the initial abatement order. Upon completion of the hearing, the official shall consider the evidence and shall either revoke the initial order, issue a final order which differs from the initial order or reinstitute the initial order as a final abatement order.

(Ord. passed 10-15-1996)

§ 91.05 ABATEMENT BY TOWN.

(A) Upon the occurrence of either of the following conditions, the appropriate official designated in § 91.02 shall cause the condition to be removed or otherwise corrected by having employees or agents of the town to go on or near the premises and remove or otherwise abate the nuisance under the official's supervision:

(1) A hearing is requested and held under § 91.04 above, resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and the order is not complied with; or

(2) No hearing is requested or held, and the person having been ordered to abate the public nuisance fails, neglects or refuses to abate or remove the conditions constituting the nuisance within 14 days from receipt of the order.

(B) Any person who has been finally ordered to abate a public nuisance may within the time allowed by this chapter request the town in writing to remove the condition, the costs of which shall be paid by the person making the request.

(Ord. passed 10-15-1996) Penalty, see § 91.99

§ 91.06 COSTS OF REMOVAL BY OWNER; LIEN.

(A) The actual costs incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land on which the public nuisance exists or adjoins the lot or land on which the person causing the nuisance owns, and it shall be the duty of the Town Clerk to mail a statement of charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from receipt thereof.

(B) In the event charges for removal or abatement of the public nuisance are not paid within 30 days after receipt of a statement of charges as provided for in this section, the charges shall become a lien upon the land or premises where the public nuisance existed or from which the public nuisance adjoined or originated, and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(Ord. passed 10-15-1996) Penalty, see § 91.99

NUISANCE/JUNKED VEHICLE REGULATIONS

§ 91.10 INTENT.

It shall be the intent of this article to promote and enhance the aesthetic appearance of the town and to protect the property values throughout the town. It is further the intent of this article to promote and enhance the attractiveness of the town thoroughfares and residential streets, which present public visibility to visitors and to passersby of the town by controlling and regulating abandoned and junked vehicles. It is further the intent of this article to protect the general public health, safety, and welfare of all residents from the location of abandoned, nuisance, or junked motor vehicles within the town.

(Ord. passed 6-10-2008)

§ 91.11 DEFINITIONS.

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

ABANDONED VEHICLE. As authorized and defined in G.S. § 160A-303, an abandoned motor vehicle is a motor vehicle which:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on a public street or highway for longer than seven days; or
- (3) Is left on property owned or operated by the town for longer than 24 hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

AUTHORIZING OFFICIAL. The Town Planner, or their designee, is designated to authorize the removal of vehicles under the provisions of this article.

JUNKED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303.2, the term **JUNKED MOTOR VEHICLE** means a vehicle that does not display a current license plate upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.

MOTOR VEHICLE or **VEHICLE.** As authorized and defined in G.S. 160A-303, the term motor vehicle means all machines designed or intended to travel over land or water by self propulsion or while attached to any self-propelled vehicle.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, and including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;

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(5) One which has areas of confinement, such as trunks, hoods, and the like, which cannot be operated from inside the area of confinement;

(6) One so situated or located that there is a danger of it falling or turning over; or

(7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass.

(Ord. passed 6-10-2008)

§ 91.12 ADMINISTRATION.

The Planning Department for the Town of Bogue shall be responsible for the administration and enforcement of this article.

(Ord. passed 6-10-2008)

§ 91.13 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(B) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

(Ord. passed 6-10-2008)

§ 91.14 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) Upon investigation, the proper authorizing official of the town may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

(B) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(Ord. passed 6-10-2008)

§ 91.15 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) Upon investigation, the town planner may order the removal of a junked motor vehicle as defined in this article after finding in writing that the public health and safety concerns of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing the public health and safety.

(1) The following, among other relevant factors, may be considered:

(a) Protection of property values; or

(b) Preservation of the character and integrity of the community.

(2) Provided, however, no vehicle that is used on a regular basis for business or personal use shall be removed or disposed of pursuant to this division.

(B) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(Ord. passed 6-10-2008)

§ 91.16 REMOVAL OF ABANDONED, NUISANCE OR JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS; APPEALS.

(A) Except as set forth in this section, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by certified mail. Reasonable diligence shall include notification to the registered owner of the vehicle at his last known address according to the latest registration certificate or certificate of title on file with the State Department of Motor Vehicles; notice to the owner of real property as recorded in the Carteret County Registry of Deeds; notice to the owner, lessee or occupant as contained in the records of the town. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specific date (no sooner than

seven days after the notice is affixed). The notice shall state that the vehicle will be removed by the town on specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) Appeals. The registered owner or person entitled to possessing a vehicle which has been determined to be an abandoned vehicle on private property, nuisance vehicle or junked motor vehicle who has received a notice pursuant to this section that the vehicle will be removed may appeal the determination. In the case of notice for removal of a junked motor vehicle where the determination has been made that the public health and safety benefits of removing the vehicle outweigh the burdens on the private property owner, in accordance with this section, the registered owner or person entitled to possession of the junked motor vehicle may appeal that determination. Any appeal shall be made within ten days upon receipt of the notice for removal of the vehicle. All appeals shall be made to the board of commissioners in writing. Appeals held pursuant to this section shall be conducted by the board of commissioners within 45 days after the receipt of a request for a hearing, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
(Ord. passed 6-10-2008)

§ 91.17 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

Circumstances justifying the removal of vehicles without prior notice include:

(A) *Vehicles abandoned on the public streets.* For vehicles left on the public streets and highways, the police department or town manager hereby determines that immediate removal of such vehicles may be warranted when they are:

- (1) Obstructing traffic;
- (2) Parking in violation of an ordinance prohibiting or restricting parking;
- (3) Parked in a no-stopping or standing zone;
- (4) Parked in loading zones; or
- (5) Parked in bus zones.

(B) *Nuisance vehicles and abandoned vehicles on private property.* These vehicles may be removed without giving prior notice in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, or vehicles causing damage to public or private property.

(C) *Vehicles left on private property.* A vehicle may be removed that has been left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours and the owner, occupant or lessee has complied with this article, or in those circumstances where there is a finding of a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records.
(Ord. passed 6-10-2008)

§ 91.18 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance or junked vehicle which has been ordered removed may, as directed by the proper authorizing official of the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(B) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth above, shall also be mailed to the registered owner's last known address, unless the notice is waived in writing by the vehicle owner or his or her agent.

(C) If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours of the removal of the vehicle.

(D) Whenever an abandoned, nuisance or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number to determine the last known registered owner of the vehicle and to notify him of the information set forth above.
(Ord. passed 6-10-2008)

§ 91.19 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in accordance with the provisions of G.S. Article 7A of Chapter 20, as amended.
(Ord. passed 6-10-2008)

§ 91.20 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article.
(Ord. passed 6-10-2008)

§ 91.21 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such vehicle shall be carried out in accordance with G.S. Article 1 of Chapter 44A.
(Ord. passed 6-10-2008)

§ 91.22 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

Except as provided in this section, as a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state laws. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the town pursuant to this section. The town shall require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.
(Ord. passed 6-10-2008)

§ 91.23 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

Any person who removes a vehicle pursuant to this article shall not be held liable for damages for the removal of the vehicle to the owner, lien holder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

(Ord. passed 6-10-2008)

§ 91.24 EXCEPTIONS.

Nothing in this subchapter shall apply to any vehicle:

(A) Which is located in a bone fide "automobile graveyard" or "junkyard" as defined in G.S. § 136-143, *et seq.* and §§ 160A-303.1 and 160A-303.2;

(B) Which is in an enclosed building;

(C) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or

(D) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(E) Which is commonly utilized in the normal course of operation of a legally created and recognized Bona Fide Farm as defined within the Zoning Ordinance.

(Ord. passed 6-10-2008)

§ 91.25 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(Ord. passed 6-10-2008)

§ 91.99 PENALTY.

(A) Any willful violation of this chapter shall constitute a misdemeanor punishable as provided in G.S. § 14-4. Additionally, any violation shall be punishable by a civil penalty in the sum of \$25 per day for each day the violation continues. A citation for the civil penalty shall be issued by the Mayor and shall be paid within 72 hours of issuance. Each and every day that a violator continues in violation shall be a separate and distinct offense.

(B) In addition to the civil or criminal penalties, the town may enforce this chapter through an injunction, order of abatement or other equitable or legal remedy available under North Carolina law and particularly G.S. § 160A-175.
(Ord. passed 10-15-1996)

CHAPTER 92: FIRE SAFETY INSPECTIONS

Section

- 92.01 Adoption of Fire Prevention Codes
- 92.02 Fire inspections program
- 92.03 Fire Inspector authority
- 92.04 Fee schedule

- 92.99 Penalty

§ 92.01 ADOPTION OF FIRE PREVENTION CODES.

There is hereby adopted by the town, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the "North Carolina Fire Code," adopted as of 2012 or as subsequently amended.
(Ord. passed 3-21-2016)

§ 92.02 FIRE INSPECTIONS PROGRAM.

In order to protect public health and safety, and in compliance with G.S. 153A-364 and G.S. 160A-424, the Fire Inspector, in accordance with G.S. 160A-411, shall make periodic inspections for the purpose of identifying activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards, not less frequently than as required by the North Carolina Fire Code and state regulations.
(Ord. passed 3-21-2016)

§ 92.03 FIRE INSPECTOR AUTHORITY.

Unless and until the town hires its own Fire Safety Inspectors, the North Carolina State Building Code: Fire Prevention Code and all codes or regulations relating to fire safety for various categories of occupancies within the jurisdiction of the town, shall be enforced by qualified employees of any unit of local government with which the town contracts for such service, including the Western Carteret Interlocal Agency. When employees of units of local government are enforcing the codes and regulations under this section, they shall have the same authority, privileges, and immunities as if they were employees of the town.
(Ord. passed 3-21-2016)

§ 92.04 FEE SCHEDULE.

<i>Commercial</i>	<i>Fee</i>
Under 3,500 square feet	\$25
3,500 - 6,500 square feet	\$50
6,500 - 10,000 square feet	\$75
Over 10,000 square feet	\$100 / \$10 per 1,000 square feet
* All re-inspections will be additional \$25 up to 6,500 square feet, \$50 up to 10,000 square feet / \$10 per 1,000 square feet.	

(Ord. passed 3-21-2016)

§ 92.99 PENALTY.

(A) *Notice of violation; penalty for violations.* The Fire Inspector is empowered to issue notices of violation when he or she has reasonable cause to believe that any person has violated any provision of the North Carolina Fire Code or the provisions of this chapter. The penalty for a violation imposed shall be a \$100 fine civil penalty for violation of the North Carolina Fire Code or this chapter.

(B) *Penalty for violations of this chapter.* Unless otherwise noted in the appropriate section, any violations of this chapter shall constitute a misdemeanor punishable by a fine not to exceed \$500.
(Ord. passed 3-21-2016)

Chapter 93: Noise

Adopted October 16, 2023

93.01 Loud and disturbing noise.

(A) *Prohibition.* Subject to the provisions of this section, it shall be unlawful for any person or persons to make, permit, continue or cause to be made or to create any unreasonably loud, disturbing, and unnecessary noise in the town. For purposes of this section, the following definitions shall apply:

(1) *Unreasonably loud:* Noise which is substantially incompatible with the time and location were created to the extent that it creates an actual or imminent interference with peace or good order;

(2) *Disturbing:* Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area;

(3) *Unnecessary:* Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person, and being a type of sound, which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

In determining whether a noise is unreasonably loud, disturbing and unnecessary, the following factors incident to such noise are to be considered: Time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(B) *Prohibited noise sources.* The creation of noise from the following sources is prohibited:

(1) The use of any loud, boisterous, or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity.

(2) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal.

(3) The playing of any radio, phonograph, musical instrument or any other machine or device for the production or reproduction of sound in such manner or with such volume, as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel, or other type of residence.

(4) The use of any automobile, motorcycle, or other vehicle so out of repair, or so loaded in such manner as to create loud grating, grinding, rattling or other noise.

(5) It shall be unlawful for any dog owner or other type animal owner to keep or have a dog or other type animal that habitually or repeatedly barks, whines, howls, crows, cackles, or any other noise that might interfere with the reasonable use and enjoyment of neighboring premises.

(6) The playing of any radio, cassette player, compact disc, videotape or disc or other similar device for reproducing sound located on or in any motor vehicle on a public street, highway, within any public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in an unreasonably loud, annoying, disturbing, or unnecessary manner as defined above. A presumption is created that the sound thus created is unreasonably loud, annoying, disturbing, and unnecessary if the sound generated or noise vibration therefrom is audible or can be felt at a distance of 30 feet or more from the radio, cassette player, compact disc, video tape or disc or other similar device that is producing the sound.

(7) The amplification of sound; music etc.

(C) *Restrictions on prohibition.* Creation of the noise described in subsection (a) above is prohibited only under the following circumstances:

(1) The noise is of such character, intensity, and duration as to be detrimental to health, safety or welfare of an individual with normal hearing and of normal sensibilities at a distance greater than 50 feet from the source of such noise, and

(2) The noise is created, particularly but not limited to, between the hours of 11:00 p.m. and 7:00 a.m.

(D) *Exemptions.* The following uses and activities shall be exempt from the noise regulations set forth in this section:

(1) Noise of safety signals and warning devices.

(2) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of an emergency.

(3) Sounds emitting from scheduled outdoor athletic events.

(4) Sounds from church bells and church chimes when a part of a religious observance or service.

(5) Any event held in recognition of any community celebration or national, state or county events, fairs, or public events.

(E) *Penalty for violation.*

- (1) No person shall be charged with violating this section without first being warned by a law enforcement officer that their actions constitute a violation of this section and given an opportunity to bring their conduct into compliance with this section.
- (2) If any person or persons shall violate this section, he or she shall be punished by a fine of not more than \$50.00 for a first offense, \$150.00 for a second offense and \$500.00 for each additional offense and imprisonment for up to 30 days. Each separate violation shall constitute a separate offense.
- (3) In addition to the penalties set out in the preceding paragraph or in lieu thereof, a person who violates this section shall be subject to the collection of a civil penalty by the county as provided in G.S. 153A-123(c).

TITLE XI: BUSINESS REGULATIONS

Chapter

110. [REDACTED] **REGULATED BUSINESSES**

Bogue - Business Regulations

[REDACTED]

TITLE XIII: GENERAL OFFENSES

[RESERVED]

TITLE XV: LAND USAGE

Chapter

- 150. FLOOD DAMAGE PREVENTION**
- 151. GROUP HOUSING**
- 152. (RESERVED)**
- 153. SUBDIVISIONS**
- 154. ZONING**

BOGUE FLOOD DAMAGE PREVENTION AND PROTECTION ORDINANCE

Adopted October 16, 2023

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of Bogue, North Carolina does ordain as follows:

SECTION B. FINDINGS OF FACT.

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

SECTION C. STATEMENT OF PURPOSE.

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

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:

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

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

"Alteration of a watercourse" means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of Shallow Flooding" means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" see "Structure".

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

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

"Coastal A Zone (CAZ)" means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones. In a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LimWA))

"Coastal Barrier Resources System (CBRS)" consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

"Coastal High Hazard Area" means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this ordinance, as Zone VE.

"Design Flood": See "Regulatory Flood Protection Elevation."

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Development Activity" means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

"Digital Flood Insurance Rate Map (DFIRM)" means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Disposal" means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including

groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before May 15, 1980, the effective date of the initial Flood Insurance Rate Map (FIRM) for the community.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before December 6, 1995, the effective date of the initial floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for

reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, storm surge or precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

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

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the

- requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
 - (4) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

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

"Letter of Map Change (LOMC)" means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

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

"Light Duty Truck" means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

"Limit of Moderate Wave Action (LimWA)" means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

"Lowest Adjacent Grade (LAG)" means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent

chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map Repository" means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"New Construction" means structures for which the "start of construction" commenced on or after, December 6, 1995, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

"Non-Encroachment Area (NEA)" means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Otherwise Protected Area (OPA)" see "Coastal Barrier Resources System (CBRS)".

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after May 15, 1980, the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before May 15, 1980, the effective date of the initial Flood Insurance Rate Map.

"Primary Frontal Dune (PFD)" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck;
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (5) Is fully licensed and ready for highway use.

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

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Sand Dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Shear Wall" means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby

the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

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

- (1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E. of this ordinance.

"Technical Bulletin and Technical Fact Sheet" means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

"Temperature Controlled" means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

"Variance" is a grant of relief from the requirements of this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including extra-territorial jurisdictions (ETJ) if applicable, of the Town of Bogue and within the jurisdiction of any other community whose

governing body agrees, by resolution, to such applicability.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 19, 2020, for Carteret County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Bogue are also adopted by reference and declared a part of this ordinance.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

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

SECTION F. INTERPRETATION.

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

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Bogue or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation

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

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

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

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
 - (viii) The certification of the plot plan by a registered land surveyor or professional engineer may be

requested at the discretion of the floodplain administrator.

- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(c)(i-vi) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 - (iii) The following, in Coastal High Hazard Areas, in accordance with the provisions of Article 5, Section B(4)(d) and Article 5, Section G and Article 5, Section H if applicable:
 - (1) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; and
 - (2) Plans for open wood latticework or insect screening, if applicable; and
 - (3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the

watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- (h) Limitations of below BFE enclosure uses. (i.e., parking, building access and limited storage only).
- (i) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.
- (j) A statement, if in Zone VE, that there shall be no fill used for structural support.
- (k) A statement, that all materials below BFE/RFPE must be flood resistant materials.)

(3) **Certification Requirements.**

(a) **Elevation Certificates**

- (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(b) **Floodproofing Certificate**

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-

carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- (e) **Certification Exemptions.** The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a); and
 - (ii) Temporary Non-Residential Structures meeting requirements of Article 5, Section B(7); and
 - (iii) Accessory Structures that are less than one-hundred fifty (150) square feet and meeting the requirements of Article 5, Section B(8).
- (f) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate.

(4) **Determinations for Existing Buildings and Structures.**

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

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

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

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D(2)(d), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. However, if the property is to be removed from the V Zone it must not be located seaward of the landward toe of the primary frontal dune. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in

person or by counsel and to present arguments and evidence pertaining to the matter, and

- (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period of not less than sixty (60) calendar days nor more than one-hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the Planning Board by giving notice of appeal in writing to the Floodplain Administrator and the clerk within thirty (30) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

- (1) Planning Board as established by the Town of Bogue, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;

- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
 - (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
 - (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
 - (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
 - (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.

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

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

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

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at

the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
- (9) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (10) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (12) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (13) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (14) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below

the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:

- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- (c) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

- (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (d) Shall, in Coastal High Hazard Areas (Zone VE), meet the requirements of Article 5, Section G.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures, except in Coastal A and VE zones, that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

- (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) Temporary Placement
 - (i) Be on site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.), or
 - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas)
 - (b) Accessory structures shall be designed to have low flood damage potential;
 - (c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (d) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
 - (e) Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE Zones;
 - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5,

Section A(4); and

- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(c)(i-vi).

An accessory structure with a footprint less than one-hundred fifty (150) square feet and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

- (9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B(2) of this ordinance shall not be permitted in V, VE, or Coastal A Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 - (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (10) Other Development.
 - (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
 - (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
 - (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

- (d) Commercial storage facilities are not considered "limited storage" as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

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

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative

effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Article 5, Section B(3); and
 - (b) The encroachment standards of Article 5, Section F(1).

SECTION G. COASTAL HIGH HAZARD AREA (ZONE VE).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Article 3, Section B, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Article 5, Sections A and B:

- (1) All new construction and substantial improvements shall:
 - (a) Be located landward of the reach of mean high tide;
 - (b) Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements shall have the space below the bottom of the lowest

horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:

- (a) Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or
 - (b) Insect screening; or
 - (c) Breakaway walls shall meet the following design specifications:
 - (i) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Article 5, Section B(4)(c)(i-vi); and
 - (ii) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 - (iii) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- (a) Water loading values used shall be those associated with the base flood.
 - (b) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:
- (a) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - (b) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
 - (c) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - (d) Pad thickness shall not exceed 4 inches; or
 - (e) Provide a Design Professional's certification stating the design and method of construction to be used

meet the applicable criteria of this section.

- (6) For swimming pools and spas, the following is required:
- (a) Be designed to withstand all flood-related loads and load combinations.
 - (b) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - (c) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - (d) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - (e) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - (f) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required:
- (a) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - (b) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - (c) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
 - (d) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - (e) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.
 - (f) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- (8) Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.
- (9) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G(3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version.

- (10) Fill/Grading

- (a) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - (b) The fill material must be similar and consistent with the natural soils in the area.
 - (c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
 - (d) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- (11) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- (12) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- (13) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).
- (14) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Article 4, Section B, (3)(f).
- (15) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (16) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
- (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
 - (c) Docks, piers, and similar structures.

- (17) No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code.

SECTION H. STANDARDS FOR COASTAL A ZONES (ZONE CAZ) LIMWA

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

- (1) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.
- (2) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:
 - (a) Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or
 - (b) Insect screening; or
 - (c) Breakaway walls shall meet the following design specifications:
 - (i) Breakaway walls shall have flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Article 5, Section B(4)(c)(i-vi); and
 - (ii) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 - (iii) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
- (3) Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Article 5, Section G(5).
- (4) All new construction and substantial improvements shall meet the provisions of Article 5, Section G(3).
- (5) A registered professional engineer or architect shall certify that the design, specifications and plans for

construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G(3) and (4), on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.

- (6) Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).
- (7) Fill/Grading must meet the provisions of Article 5, Section G(10).
- (8) Decks and patios must meet the provisions of Article 5 Section G(14-15).
- (9) In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Article 5, Section G(16).

SECTION I. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section I(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION J. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

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

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention

Ordinance enacted December 6, 1995, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or

proceeding instituted or pending. All provisions of the Flood Damage Prevention and Protection Ordinance of the Town of Bogue enacted on December 6, 1995, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Carteret County is May 15, 1980.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

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

SECTION C. SEVERABILITY.

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

SECTION D. EFFECTIVE DATE.

This ordinance shall become effective October 16, 2023.

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention & Protection Ordinance as adopted by the Town Council, the Town of Bogue, North Carolina, on the 16th day of October 2023.

ROBERT O'CHAT
Mayor

Attest:

SHAWNE SOUTHARD
Town Clerk

CHAPTER 151: GROUP HOUSING

Section

In General

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- 151.02 Complaints regarding violations
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Design Standards

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IN GENERAL

§ 151.01 DEFINITIONS.

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

BUILDING. Any structure which has a roof and which is designated for the shelter, support, or enclosure of persons, animals, or property of any kind. 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

CERTIFICATE OF COMPLIANCE. A certificate issued by the town-designated Building Inspector upon completion of the construction to indicate that the terms of this chapter have been complied with and met.

Condominium: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interest in the common elements is vested in the unit owners.

DEVELOPER. Any person engaged in the development or proposed development of a group housing project herein.

Dwelling: A building or portion thereof used exclusively for residential purposes, including one-family, two-family, and multiple-family dwellings, but not including hotels and boardinghouses.

Dwelling, Condominium Unit: A physical portion of the condominium designated for separate ownership or occupancy the boundaries of which are described pursuant to N.C.G.S. § 47C-2105 (a) (5).

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 building or portion thereof providing complete living facilities for one (1) family.

ENFORCEMENT OFFICER. The Enforcement Officer as the term is used herein and shall be the town-designated Zoning Officer or his or her designated representative.

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

GROUP HOUSING. A series of one or more buildings designed for multi-family use in accordance with the provisions of this chapter.

GROUP HOUSING PROJECT. A project which proposed the construction and/or development of a tract of land and one or more buildings thereon for multi-family use, including but not limited to condominiums, townhouses, row houses, apartments, and other forms of group housing.

GROUP HOUSING PROJECT PERMIT. A permit secured from the town-designated building inspection office to allow construction of a group housing project after approval has been granted for a project according to the procedures and terms set forth herein.

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 DEPTH. The mean horizontal distance between front and rear lot lines.

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

LOT WIDTH. The horizontal distance between the side lot lines measured at the required front setback line.

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.

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 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.

Person: Any individual, partnership, joint venture, corporation, association, social club, fraternal organization, trust, estate, receiver, or any other entity.

PLANNING BOARD. The Bogue Planning Board.

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

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

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.

RESIDENCE. Any building, structure, or portion thereof which is designed, arranged, or used for a residential occupancy, but shall not include a motel, hotel, or tourist home.

Row house shall mean one of a series of houses (often of similar or identical design) that are situated side by side and joined by common walls.

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.

STREET. A right-of-way for vehicular traffic which affords means or access to abutting properties. As used herein, **STREET** includes both private and publicly dedicated rights-of-way.

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.

USED or OCCUPIED. Includes the words intended, designed, or arranged to be used or occupied.

VARIANCE. A modification of the terms and conditions of this chapter by the Town Council of Adjustment where the strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is requested.

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

PUBLIC WATER SUPPLY SYSTEM. An approved water system serving 15 or more connections or serving a minimum of 25 people daily at least 60 days out of the year, including county, municipal and private water systems.

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.

§ 151.02 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint with the town-designated Planning or Zoning Officer. The written complaint shall fully state the causes and basis therefor. The town-designated building inspection department shall immediately record the complaint, thoroughly investigate the complaint, and shall take appropriate action thereon as authorized by law.

§ 151.03 CHAPTER DECLARED MINIMUM REQUIREMENTS.

The provisions of this chapter shall be held to be minimum requirements which are adopted for the promotion of the public health, safety, or general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted regulations, the most restrictive or that imposing the highest standards shall govern and control.

§ 151.04 AMENDMENTS AUTHORIZED; PROCEDURE.

(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 public hearing as required by the NCGS.

(B) Petitions for an amendment to this chapter must be filed with the Zoning Administrator or the Town Clerk 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 per the established fee schedule. The Planning Board shall make its recommendation to the Town Council within 30 days from the date the proposed amendment is submitted to the Planning Board. In the event the Planning Board does not make a recommendation within 30 days after receipt of the proposed amendment, the request will be deemed to have been approved by the Planning Board.

(3) Upon receipt of the recommendation from the Planning Board concerning the proposed amendment, or if the Planning Board fails to act upon the proposed amendment within 30 days following the receipt of the same, the Town Council may set a date for a public hearing concerning the proposed amendment and may authorize the Clerk or the Planner to advertise notice of the public hearing as required by the NCGS.

§ 151.05 APPEALS.

The Town Board of Adjustment shall hear and decide appeals from and review any order, requirements, decisions, or determination made by the Enforcement Officer charged with the enforcement of this chapter. The powers, duties and procedures of the Board of Adjustment shall be in accordance with the provisions of G.S. Ch. 160D and in accordance with the Town of Bogue Zoning Chapter.

DESIGN STANDARDS

§151.20 COMPLIANCE.

All group housing projects shall adhere to and comply with the design standards set forth in this subchapter.

§ 151.21 MINIMUM AREA.

All group housing projects shall contain a minimum of one acre.

§ 151.22 DENSITY, SETBACKS, OTHER REQUIREMENTS

(A) The number of units per acre shall be based on the following appropriate formula.

- (1). For each one-bedroom unit, 12 maximum units per acre.
- (2) For each two-bedroom unit, ten maximum units per acre.
- (3) For each three-bedroom unit, eight maximum units per acre.
- (4). For each four-bedroom unit, six maximum units per acre

(B) Maximum project area covered by dwelling units - 40% of project area.

(C) Minimum front yard - 25 feet.

(D) Minimum rear yard - 20 feet, plus an additional five feet for each additional story.

(E) Minimum side yards - 12 feet, plus additional five feet on each side for each additional story above two.

(F) Minimum distance between principal buildings - 12 feet.

(G) Side yards abutting a street shall have a 20-foot setback.

(H) Maximum height - 35 feet.

(I) Parking spaces - (ten feet by 20 feet) - three spaces per unit plus one space per two units for visitor parking.

(J) Front, rear and side yard requirements may be varied by the Board of Adjustment provided the Board finds that it is in the best interest of the overall plan and provided it will not have the effect of nullifying the intent of this section.

(K) Upon approval by the Board of Adjustment the height limitation may be varied.

(L) Construction, property lines and common ownership:

(1) Construction of attached single-family dwelling units permitted under this section shall be as a project and shall not be as individual units. The number of attached single-family dwelling units approved for the construction permit shall be completed as one group or project. Any additional dwelling units to be attached may be permitted at a later time, but requirements for end, corner, or exterior lots, as stated in this chapter, shall be met;

(2) All side property lot lines shall be identified by planting of small trees and/or shrubs, the erection of wood fences approved by the planning commission, the construction of permanent concrete markers or any combination of the above required means of identification of side property lines; and

(3) Common ownership of property in a row house development may include:

- (a) Brick walls separating the attached single-family dwelling units in a row;
- (b) Shrubs, trees, fences, and/or permanent concrete markers of monuments which are required and served as side lot line identification.

PRELIMINARY PLANS

§ 151.35 REQUIRED INFORMATION.

The preliminary plan required by this chapter as submitted to the Town Planning Board shall contain the following information on one or more sheets, and shall comply with the following requirements:

(A) General information:

- (1) Name of development;
- (2) Name of owner and developer;
- (3) Name of land planner, architect, engineer, or surveyor;
- (4) Scale of map which shall not be more than 100 feet to an inch; and
- (5) Date of preliminary plat.

(B) A vicinity map showing all roads in the general area or the proposed group housing project, and also showing the relationship of the group housing project site to major roads in the area;

(C) The dimensions and bearings of all exterior property lines shall be shown on the preliminary plan;

(D) Land contours with vertical intervals of not more than two feet shall be provided for all projects and shall be shown either on the preliminary plan or on a topographic survey which accompanies the preliminary plan. In the event a topographic survey is submitted with the preliminary plan, it shall be drawn to the same scale as the preliminary plan and shall show land contours with vertical intervals of not more than two feet;

(E) The preliminary plan shall show all roads within the group housing project area, and to include access roads and adjacent roads to the project area;

(F) The preliminary plan shall also indicate and show surface water drainage plans and methods;

(G) The preliminary plan shall show and specifically locate all structures and buildings within the project site to include both present and proposed structures and buildings. The dimensions of the buildings and structures shall be shown in detail;

(H) All recreation and open spaces both existing and proposed shall be indicated in detail, and all structures, uses and buildings both existing and proposed within the recreation and open spaces shall be indicated in detail;

(I) The preliminary plan shall be accompanied by detailed plans of the developer concerning the method of surfacing roads and parking area;

(J) The preliminary plan shall indicate in detail the location and intensity of area lights and the general plan of the electrical system for the project area;

(K) The preliminary plan shall indicate the source of water and the distribution system for the source of water. In the event the water system requires approval by state and/or federal agencies, then plans and specifications approved by the state and federal agencies having jurisdiction over the system must be submitted. If the water distribution system requires approval from the County Health Department, the approval of the County Health Department must accompany the preliminary plans;

(L) If a public sewerage collection and disposal system is used, plans and specifications approved by state and/or federal agencies must be submitted. If a public sewerage system is not required and the system comes under the jurisdiction of the County Health Department, their approval must accompany the preliminary plans;

(M) The preliminary plans shall indicate bodies of water, marshes, wooded areas, creeks, rivers, and other natural conditions which may affect development within the project site.

(N) The preliminary plan shall indicate all adjoining property owners;

(O) The preliminary plan shall indicate the graphic scale with a north arrow;

(P) The preliminary plan shall indicate in detail the site data as follows:

- (1) Total acreage in the project;
- (2) Type of group housing project units to be approved;
- (3) Number of one-bedroom, two-bedroom, three-bedroom and four-bedroom group housing project units;
- (4) Maximum project area covered by the group housing project;
- (5) Minimum front, rear and side yards for each unit within the group housing project;
- (6) Minimum distance between principal buildings;
- (7) Height of each building;
- (8) Parking area and parking spaces for the project; and
- (9) If the group housing project proposes dwellings other than condominiums, the size of each lot shall be shown and the location of the unit on each lot shall be indicated. The minimum lot width and side, rear and front yards for each unit shall be indicated in detail.

(Q) The preliminary plans for a condominium group housing project shall be accompanied by a copy of the proposed declaration of unit ownership, the by-laws and the documents creating the homeowner's association;

(R) The preliminary plans for townhouses, row houses and other attached single-family dwellings other than condominiums shall be accompanied by a copy of the proposed restrictions, covenants, easements, and homeowner's association documents; and

(S) The preliminary plans shall also indicate the height above sea level for this project site and shall indicate whether or not any of the project area is within an area of environmental concern as defined under the Coastal Area Management Act.

Screening/buffering.

A. *General screening requirements.* Whenever screening is required, a minimum ten-foot wide vegetative buffer must be provided to materially screen, as determined by the planning board or designee, the uses within the subject property from the view of abutting properties.

The vegetative buffer shall contain:

- (1) At least two offset rows of evergreen shrubs that are spaced not more than five feet apart at planting, have a planted height of at least three feet, and are of such type that can be expected

to be five feet or more in height after three growing seasons.

(2) In addition, the vegetative buffer shall contain at least a third row of shrubs that are dense, low-lying, and planted so as to fill-in the low-lying gaps between the trunks of the evergreen shrubs after three growing seasons. Said vegetative buffer shall be maintained continuously in a healthy state by the property owner(s).

In all cases where a residential use or district abuts any other zoning district, screening shall be provided in accordance with the requirements of other pertinent provisions of this chapter when the nonresidential property is developed.

Such screening is not required at access points to the property, such as entrances, exits, driveways and sidewalks. Screening shall not be required across major thoroughfares or in the front yard setback, except for outdoor storage and boat storage. Screening near driveways, entrances, and exits intersecting with a roadway shall be no closer than ten feet to the intersection.

Maintenance of screening/buffering —All screening and buffering that is required by this chapter shall be maintained so as to continue its effectiveness. Periodic inspections may be made to determine continued effectiveness of the required screening and buffering. Any deficiencies shall be treated as a violation of this chapter. Any required screening or buffering that needs to be replaced shall be replaced within 30 days of notification in writing by the planning director or designee. The replacement screening or buffering shall be of the same species or of similar effectiveness for screening or buffering, as determined by the planning director or designee, and shall be at least as tall as the plant or plantings were at removal.

When a vegetative buffer is deemed inappropriate by the planning director or designee due to site, neighborhood, or other conditions, the planning director or designee may allow either a durable masonry wall or privacy fence or any combination of walls, fences, and vegetation that are designed to be compatible with the character of adjacent properties, as determined by the planning director or designee.

Walls and fences —Within residential districts, walls and fences that are required by this chapter must be at least five feet in height but shall not be greater than eight feet in height, measured from the ground along the common lot line of adjoining properties. Along nonresidential zoning district boundaries, walls and fences that are required by this chapter must be at least five feet in height but shall not be greater than ten feet high. Walls and fences must be constructed and maintained in a safe and sound condition. Walls and fences near driveways and entrances and exits intersecting with a roadway shall be no closer than ten feet to the intersection.

b. ***Screening and outdoor storage.*** Outdoor storage of any material, stocks, or equipment (other than junkyards and salvage yards), whether the outdoor storage is a principle use or an accessory use, on any lot within any district (other than a residential district or use) must be screened from any abutting residential use or district, in accordance with the requirements of this chapter.

c. ***Waiver of screening requirements when screening is already provided.*** There may be cases where the unusual topography or elevation of a site, the size of the parcel involved, existing

vegetation on the site, or the presence of screening on abutting property would make the strict adherence to the ordinance serve no useful purpose. In those cases, the planning director or designee is empowered to waive the requirements for some or all of the screening, as long as the spirit and intent of the ordinance and the general provisions of this chapter pertaining to screening are adhered to.

d. *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.

e. *Screening and trash receptacles.* Dumpsters, trash compactors, and similar trash receptacles, whether located in a residential or nonresidential development (other than a receptacle that serves just one single-family residence on the same premises), shall be enclosed on all four sides. Three of the sides must be constructed of durable materials that match or complement the principal building. The fourth side shall be an opaque gate. The wall and gate shall have a minimum height of six feet. A chain link fence shall not be permitted for the wall or the gate.

§ 151.36 REVIEW PROCEDURE.

(A) After the application for a group housing project has been filed with the Town Planning Board accompanied by the preliminary plans and other documents as required by this chapter, the following procedure shall be followed with regard to the review, approval or denial of the plans and permit for a group housing project.

(B) Within 21 days following the filing of the application for a permit and with the preliminary plans and other documents, the Planning Board shall notify the Technical Review Committee of the date, location, and time for a meeting to review it. The Technical Review Committee as established in the town Zoning Chapter §153.45 shall then meet at the date and time specified to review the permit application and the preliminary plans and documents accompanying the application for a permit.

(C) The Technical Review Committee (TRC) shall insure that the preliminary plans, application for a permit and documents accompanying the preliminary plans contain all of the information required by this chapter and comply with the design standards and specifications of this chapter.

(D) Each agency reviewing the application for a group housing project shall submit their comments and recommendations to the Town Planning Board. If any reviewing agency shall find deficiencies in the review of the plans for the group housing project, that agency or agencies shall notify in writing the developer and the Town Planning Board.

(E) If one or more agencies reviewing the group housing project find deficiencies in the plan, the developer may appeal the deficiencies to the Town Planning Board and request approval of the application and preliminary plans. If the Town Planning Board finds that the deficiencies as set forth in the agency's report do in fact exist, the application for a group housing project permit shall be denied and the developer shall be informed of the denial so that the deficiencies may be corrected.

(F) Upon receiving written notification of approval of all agencies involved in the review of the group housing project the Town Planning Board shall review the application for a group housing project permit, the preliminary plans and the documents submitted with the preliminary plans. If the Town Planning Board finds that the group housing project complies with the requirements of this chapter, the Town Planning Board shall grant approval and shall recommend to the town-designated Building Inspector's office that a permit be issued.

(G) Any person or persons aggrieved by a decision of the Planning Board may appeal the decision to the Zoning Board of Adjustment within 30 (thirty) days of the decision. Any person or persons aggrieved by a decision of the board may appeal the decision to the superior court of North Carolina within 30 (thirty) days after a written and signed copy of the decision is filed in the planning department. Any aggrieved party may submit a written request for the decision at the time of the hearing.

PERMITS AND CERTIFICATES OF COMPLIANCE

§ 151.50 PERMIT, COMPLIANCE REQUIRED.

No person shall construct or develop a group housing project, or convert any existing building or structure to a group housing project, nor shall any person make any addition to an existing group housing project that either alters the number or units within the project or affects the facilities required therein, unless he or she shall have first secured a permit authorizing the conversion, construction, development or addition according to the procedures set forth in this chapter. The construction, development, conversion, modification, or addition shall be in accordance with plans and specifications submitted with the application and as approved according to the procedure set forth herein. All plans and specifications submitted with the application for a group housing project shall adhere to and comply with the area requirements and design standards as set forth in this chapter.

§ 151.51 TIMING OF PERMIT APPLICATION.

Each application for a group housing project permit shall be filed with the Town Planning Board a minimum of three weeks prior to the meeting of the Town Planning Board which is

scheduled to review the application for a group housing project permit. Each application for a group housing project permit shall be accompanied by six prints of the preliminary plan. If the proposed group housing project is located in a zoning district which would require a special use permit for a group housing project pursuant to the terms of the town Zoning Chapter, it shall be necessary for the Board of Adjustment to have approved a special use permit for the proposed group housing project prior to the submission of the application for a group housing project permit.

§ 151.52 ISSUANCE OF PERMIT.

After approval of the preliminary plans for a group housing project by the Town Planning Board, the town-designated Building Inspector is authorized to issue a construction permit.

§ 151.54 ISSUANCE OF CERTIFICATE.

The town-designated Zoning Administrator is authorized to issue a certificate of compliance after the project is completed pursuant to the terms of this chapter and the plans and application as approved by the Town Planning Board. The certificate of compliance and the certificate of occupancy shall be issued only after the Enforcement Officer is satisfied that all work has been executed as outlined in this subchapter and in accord with the preliminary plans and documents submitted to and approved by the Town Planning Board.

§ 151.55 AUTHORIZATION TO SELL, RENT OR LEASE PROPERTY.

Upon receipt of the certificate of occupancy and the certificate of compliance the developer and permit holder is duly authorized to begin the sale, rental or leasing of the units in the group housing project in any way that is not contrary to the provisions of this chapter.

§ 151.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any or the requirements of this chapter (including violations of conditions and safeguards established in connection with grants for variances) shall constitute a misdemeanor. Any person who violates this chapter shall upon conviction thereof be punished by imprisonment for up to 30 days, or a fine not exceeding \$500 per occurrence or both as determined by the court. Each day the violation continues shall be a separate offense. The town shall also be authorized to take other lawful actions as may be necessary in order to prevent or remedy any violation, and the town is authorized to enforce the terms and conditions of this chapter by appropriate civil action or proceedings to restrain, correct or abate a violation hereof. In this regard, the town shall have those actions and remedies set forth in G.S. Ch. 160A.

CHAPTER 153: SUBDIVISIONS

Adopted 8/21/2023

Section

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GENERAL PROVISIONS

§ 153.01 TITLE AND PURPOSE.

(A) These regulations shall be known and may be cited as the subdivision regulations for the Town of Bogue, North Carolina, and may be referred to as the subdivision regulations.

(B) The purpose of these regulations is to support and guide the subdivision of land within the jurisdiction of the Town of Bogue in order to promote the public health, safety, and general welfare of the citizens of the Town of Bogue. These regulations are designed to promote an orderly growth and development; for coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding; will create conditions that will substantially promote public health, safety, and general welfare.

§ 153.02 AUTHORITY AND JURISDICTION.

(A) These regulations are adopted under the authority of NC GS §160D-201 *et seq*; NC GS §160D-801 *et seq*.

(B) These regulations shall govern each and every subdivision of land within the Town of Bogue's planning jurisdiction. Any municipal governing body may, upon one year's written notice, withdraw its approval of the county subdivision regulations and those regulations shall have no further effect within the municipality's jurisdiction.

§ 153.03 DEFINITION OF SUBDIVISION AND EXEMPTIONS.

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

SUBDIVISION.

(A) All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing street; but the following shall not be included within this definition nor be subject to the regulations established herein:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown by the regulations prescribed by this chapter;

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

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

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

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NC General Statutes.

(B) Plats falling under the listed exemptions shall be reviewed by the Town of Bogue Zoning Administrator to determine if it is exempt. If the plat is exempt, then it will be reviewed for approval by the Town of Bogue Planning Board before being recorded with the Carteret County Registrar of Deeds.

§ 153.04 SERVICES AND PERMITS.

(A) No street shall be recommended for acceptance for maintenance by the North Carolina Department of Transportation, nor shall any permit be issued by any administrative agent of the Town of Bogue, nor shall water, sewer or other county facilities or services be extended to or connected with any subdivision until the provisions of this chapter are complied with. The construction of public streets and related drainage systems shall be inspected by the North Carolina Department of Transportation district highway engineer for compliance with its standards. The county health director or local public utility, as appropriate, shall be given an opportunity to make recommendations as to proposed water or sewerage systems.

(B) When preparing the construction and/or development of a tract of land with one or more buildings thereon for multi-family use, application for a group housing project permit shall be filed with the Town of Bogue Planning Department in accordance with the procedure for approval, Bogue Group Housing Ordinance.

§ 153.05 GENERAL PROVISIONS.

(A) *Separability.* Should any section or provision of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, that decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

(B) *Variances.* The Board of Adjustment will hear requests for a variance per §154.067 - §154.072.

(C) *Prohibition against the recordation of unapproved plats.* A certified copy of these

regulations shall be delivered to the Carteret County Register of Deeds for recordation. On and after delivery of the chapter to the Carteret County Register of Deeds Office, no plat which has not been approved in accordance with these regulations shall be recorded by the Carteret County Register of Deeds of the Clerk of Superior Court if the same would be in conflict with the provisions or intent of these regulations.

(D) *Amendments.* The Town Council may from time to time amend the terms of these regulations, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. Petitions for an amendment to this chapter must be filed with the Zoning Administrator no later than 21 days prior to the date the Bogue Planning Board is to consider the petition. A filing fee shall accompany the petition per the established fee schedule. The Planning Board shall make its recommendation to the Town Council within 30 days from the date the proposed amendment is submitted to the Planning Board. In the event the Planning Board does not make a recommendation within 30 days after receipt of the proposed amendment, the request will be deemed to have been approved by the Planning Board.

(E) *Abrogation.* It is not intended that these regulations repeal, impair, abrogate, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

(F) *Appeal of administrative decision by staff.* An administrative decision pertaining to these subdivision regulations made by a Town staff member may be appealed to the Board of Adjustment as provided in NCGS 160D-405.

§ 153.06 DEFINITIONS.

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

AREAS OF ENVIRONMENTAL CONCERN: [AEC] Areas of an environmentally sensitive nature.

BUFFER STRIP: A buffer strip shall consist of depth of no less than five feet of land in width containing evergreen shrubs spaced not more than five feet apart, and not less than one row of dense shrubs five feet or more in height alter three growing seasons which shall be planted, trimmed and maintained continuously in a healthy growing condition by the property owner. For special use where evergreen shrubs are deemed inappropriate because of limited lot space available to dedicate to a five-foot buffer strip or other reasons, a wooden structure screen fence manufactured of suitable salt treated pine or cedar; cypress or redwood lumber not less than five feet or more than eight feet high may be erected and maintained in good condition by the property owner with the approval and/or recommendation of the Planning Board of the Town of Bogue.

CORNER LOT: A lot abutting upon two or more streets at an intersection.

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.

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.

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

FAMILY SUBDIVISION: The division of a tract of land approved by the Planning Board into no more than four new lots for the purpose of creating lots to be deeded to immediate family members, for the purpose of providing access to those lots by an alternative means of access as authorized in § 153.32. Immediate family is defined as direct lineal decedents (children, grandchildren, and great grandchildren) and direct lineal ancestors (father, mother, grandfather, and grandmother). To qualify as a family subdivision, the property owner must provide proof that ownership of the tract to be subdivided has been in continuous ownership for a minimum of seven years.

FLOOD-PRONE AREAS: Areas indicated on the flood insurance rate maps of the National Flood Insurance Program to be susceptible to inundation during a 100-year flood. In the absence of 100-year flood data, other flood data may be used if approved by the National Flood Insurance Program.

LOT: A portion of a subdivision, or any other parcel of land intended as a unit for transfer of ownership or for development or both. 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. In determining the area and dimensions of a lot, no part of the right-of-way of a road may be included. The word "lot" includes "plot," "parcel," or "tract."

LOT OF RECORD: A lot which is part of a subdivision, plot, parcel, or tract recorded in the Office of the Carteret County Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation or a lot described by metes and bounds, the description of which has been recorded prior to the adoption of this chapter.

MAJOR SUBDIVISION: All subdivisions containing three or more lots.

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 HOME SUBDIVISION: A residential subdivision containing manufactured homes situated on their individual lot.

MINIMUM REQUIREMENTS: All sizes, setbacks and other requirements of this chapter are minimum requirements and may be increased.

MINOR SUBDIVISIONS: All subdivisions not defined as major subdivisions.

OFFICIAL MAPS AND PLANS: Any maps and plans officially adopted by the Town Council as a guide for development in the Town of Bogue.

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.

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.

OWNERS' ASSOCIATION: An organization of homeowners or property owners owning real property, residing, or operating a business within a particular subdivision or development whose major purpose is to maintain and provide community facilities, services, or land for common use of the residents or property owners of the subdivision or development.

PLANNING BOARD: The Planning Board of the Town of Bogue.

PRIVATE STREET OR ROAD: A vehicular travel way not dedicated or offered for dedication as a public street but resembling a cul-de-sac or a local street by carrying traffic from a series of driveways to the public street system. Private streets must meet the design standards delineated in section 4-4.7. The platting of such streets requires a Subdivision Streets Disclosure Statement in accordance with NCGS 136-102.6.

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 WATER SUPPLY SYSTEM: An approved water system serving 15 or more connections or serving a minimum of 25 people daily at least 60 days out of the year, including county, municipal and private water systems.

RECREATION AREA or PARK. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man made features that accommodate those activities.

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 Land Use 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.

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.

SUBDIVISION APPROVAL OFFICER: The Mayor, Mayor *pro tempore* in the absence of the Mayor, or the Planning Board Chairperson who is authorized to execute all plats in order for the same to be recorded.

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.

TOWN COUNCIL: The Bogue Town Council.

ZONING ADMINISTRATOR: The Town Clerk or the Town Planner.

GENERAL REQUIREMENTS AND MINIMUM STANDARDS FOR SUBDIVISIONS

§ 153.20 NAME OF SUBDIVISION.

The name of the subdivision shall not duplicate the name of an existing subdivision within the

Town of Bogue's jurisdiction.

§ 153.21 STREETS AND ROADS.

(A) In any new subdivision the street layout shall conform to the arrangement, width and location indicated by any official plans or maps for Town of Bogue. In areas for which plans have not been completed, the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to natural features such as streams, to public convenience and safety and to the proposed use of land to be served by streets. All streets shall provide for the continuation or appropriate projection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding tracts.

(B) All streets and roads within subdivisions or accessing proposed subdivisions, unless qualifying as exempt under division (C) below, shall be paved and constructed according to the secondary road specifications of the North Carolina Department of Transportation [NCDOT] pursuant to *Subdivision Roads, Minimum Construction Standards*. All streets shall be required to show a minimum 60-foot right-of-way on the final plat unless the NCDOT approves a smaller right-of-way or the project is a minor subdivision as defined in this chapter.

Street names and property addresses. Streets that are obviously in alignment with existing streets shall generally bear the name of the existing street. Street names shall not duplicate or closely approximate phonetically the names of existing streets in the town of Bogue. Street suffixes and addresses shall conform to the standards established by the Carteret County 911 Addressing division.

(C) The following subdivision roads shall be exempt from meeting secondary roads specifications of NCDOT:

(1) Roads in minor subdivisions where no adjacent land is owned or under option to the subdivider;

(2) Roads which are unpaved but are maintained by the NCDOT;

(3) Roads which cannot be built to NCDOT standards without violating any local, state, or federal laws. (Related to wetlands and marshes.) Appropriate state and federal permits will be required;

(4) Roads within subdivisions where each lot within the subdivision is at least five acres, as defined in division (I) below; and

(5) Roads within campground subdivisions.

(D) Streets shall be laid out so as to intersect as nearly as possible at right angles. Street jogs with centerline offsets of less than 125 feet shall be avoided.

(E) Cul-de-sacs shall be no longer than 900 feet in length unless necessitated by topography

or size of the parcel. The turnaround shall have a right-of-way of not less than 90 feet.

(F) Block length shall not be less than 200 feet nor more than 1,320 feet in length, except where in the opinion of the Planning Board existing topography or size of the parcel require a modification.

(G) Blocks shall have a sufficient width to provide for two tiers of lots except where topographic or other conditions would require otherwise.

(H) Plans for proposed public streets shall be approved by NCDOT prior to final plat approval.

(I) Minimum construction standards for non-state-maintained roads in subdivisions with each lot containing at least five acres: The minimum standards shall be those set forth in *Subdivision Roads Minimum Construction Standards* by the North Carolina Department of Transportation (July 1, 1979 and subsequent amendments) except for the requirements of a stone base and paved surface. No grade shall be muck, pipe, clay, organic matter, or other unsuitable material. A minimum right-of-way of 60 feet shall always be required.

(J) Setbacks for five acre lots shall be the same as required in §153.22 (C) (5) below.

(K) A subdivision streets disclosure statement shall be issued in accord with G.S. § 136-102.6, designating the appropriate person, homeowner's association or other group that will maintain the nonstate-maintained streets in each subdivision in the future.

§ 153.22 LOTS.

(A) Lot sizes, shapes and locations shall be made with due regard to topographic conditions, soil types, contemplated use, and the surrounding area. Land designated as a floodplain by the Federal Emergency Management Agency shall always be designated on all lots, tracts or plan when presented. Under no circumstances will required lot areas contain street rights-of-way.

(B) Every lot shall front on or about a minimum of 25 feet on a publicly dedicated or maintained street.

(C) Every lot shall have sufficient lot area, lot dimensions, and building setbacks to permit a principal structure to be erected thereon in compliance with the applicable requirements of the Bogue Zoning Ordinance. Lots not served by public water and/or sewer service shall comply with the specifications and standards of the Carteret County Environmental Health Department, but in no case shall the lot size be less than the minimum lot size required in the underlying zoning district.

(1) No driveway on any lot shall be located within 30 feet of a street right-of-way intersection;

(2) Detached garages, carports and accessory buildings may be constructed in the rear

yard provided they are no closer than five feet to any adjoining rear lot line and five feet from any adjoining side lot lines;

(3) Carports with any type of enclosed storage shall not encroach into the required side yard setback;

(4) Townhouses and other types of attached single-family structures shall:

(a) For lots with individual septic tanks, all shall comply with the minimum lot area requirements of divisions (C) above or by a combination of lot area and open space;

(b) Lots served by public water and public sewer shall have:

1. A minimum lot size of 1,600 square feet and a minimum lot width of not less than 16 feet;

2. A front yard setback of not less than 25 feet;

3. A rear yard setback of not less than 20 feet; and

4. No side yard setback except on corner lots (measured from the exterior building line of the principal structure). This shall not be less than one-half the front yard setback.

(c) Five foot access easements shall be reserved in each rear yard and ten-foot access easements shall be located between each principal building.

(d) No dwellings shall be connected on more than two sides by common walls.

(e) Each townhouse shall be provided with at least two nine-foot by 20-foot parking spaces.

(5) Recreation and open space requirements:

(a) Every person or corporation that subdivides land for residential purposes under the requirements contained in this chapter shall also be required to dedicate a portion of the land; to provide cash-in-lieu-of-land payment; or to provide a combination of land, cash and facility development acceptable to the town for the purposes of acquiring or developing park, recreation and open space sites to serve the residents of the neighborhood in which the subdivision is located or in the immediate area of the subdivision. Minor subdivisions where one new lot is being created shall also be exempt.

(b) The amount of land required to be dedicated by a subdivider shall be based on: the most recent Bureau of the Census figures for an average family size in Carteret County; a minimum park and recreation standard factor of eight acres per 1,000 persons and the total number of dwelling units or lots.

Formula	Example
Total Number of Lots	25 lots
Multiplied by	X
Average Family Size Per Last Census	2.76 persons
Multiplied by	X
0.008 Acres per Person	0.008
Equals	equals
Area Required	0.55 acre

(c) Acreage average per dwelling unit or lot is computed by dividing the combined total acreage of all dwelling units or lots by the number of dwelling units or lots. For computation purposes, land dedicated or reserved for other purposes such as streets, alleys, and other purposes other than residential shall not be used in determining average acreage. In no case shall a developer be required to dedicate more than 30% of the acreage of a development.

(d) Criteria for evaluating suitability of proposed recreation, parks and open space areas shall include but not be limited to the following as determined by the Town of Bogue Planning Board in consultation with the Bogue Town Council.

1. *Unity.* The dedicated land shall be a single parcel except where it is determined that two or more parcels would be in the public interest. The Planning Board may require that the parcels be connected and may also require a path at least 30 feet in width in addition to the land requirement.

2. *Location.* The dedicated land shall be located so as to serve the recreation needs of the immediate neighborhood within the subdivision.

3. *Physical characteristics.* The shape, topography and subsoils of the dedicated land shall be usable for parking and active recreation. Lakes and marshes may not be included in computing dedicated land area unless acceptable to the Planning Board.

4. *Accessibility.* Public access to the dedicated land shall be provided either by an abutting street or public easement. The public easement shall be at least 30 feet in width.

(e) A developer may provide funds in the amount of the assessed market value of the required area, in division (9)(b) above to the Town of Bogue, not to exceed \$15,000 per acre, whereby the town may purchase recreational land or areas to serve the subdivision or development in the immediate area. This may be done in lieu of providing the land required if

approved by the Bogue Town Council.

(f) The Planning Board may, in cases of an unusual or exceptional nature, allow adjustments in the dedication requirements established in this chapter. Adjustments shall be reviewed by the Bogue Town Council and the Planning Board. An unusual or exceptional nature may include but not be limited to land within the development set aside for private recreation or proposed expenditures for recreational facilities or equipment.

(g) Expenditures of recreation funds shall be determined by the Town of Bogue.

(h) If the land required for donation in a section of a subdivision exceeds the requirement in division (9)(b) above, the difference can be applied to future sections.

(i) If the overall master plan of a subdivision shows future recreation areas not included in the section receiving final plat approval, the donation of recreation land (or fees) shall not be required. However, if the amount of recreation land required by this chapter is not developed within one year of final plat approval, division (9)(b) or (g) above shall immediately apply.

(j) The Town of Bogue shall be divided into recreational districts for the purpose of distributing funds which are collected from the cash-in-lieu-of-land payments. These funds shall be spent only on capital improvements to town-owned recreational facilities or for town-sponsored programs.

§ 153.23 EASEMENTS AND SIDEWALKS.

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

(B) *Buffer strips.* A buffer strip at least 20 feet in width may be required by the Planning Board adjacent to a major street or commercial or industrial area. This strip shall be in addition to the normally required lot dimension; shall be part of the platted lot; and shall be reserved for the planting of trees and shrubs by the owner.

(C) *Sidewalks.* If any street in a subdivision is within one-quarter mile (by road) of an existing or recognized approved planned school or town recreation area, the subdivision shall be required to include sidewalks if densities exceed three dwelling units per gross acre. Sidewalks shall not be less than 48 inches in width and a minimum thickness of four inches of concrete or other approved material on a compacted base. Sidewalks may be required on one side of the street.

§ 153.24 SUITABILITY OF LAND.

(A) *In general.* Land that has been determined by the Planning Board either through its own investigations or the investigations of other public agencies, to be unsuitable for development

because of flooding, poor drainage, steep slopes, poor soil conditions and other such physical features that may endanger health, life, or property or necessitate the excessive expenditure of public funds for the provision and/or maintenance of public services shall not be approved for subdivision unless methods are formulated by the developer for mitigating the problems created by the subdivision of such land.

(B) *Prevention of flood damage.* Lands known to be within a floodplain or any area known to be subject to flooding shall be so identified on the preliminary plat. All subdivisions shall be consistent with the provisions of the Bogue Flood Damage Prevention Ordinance. Required public utilities and facilities in all subdivisions shall be installed so as to minimize flood damage.

Where areas of environmental concern have been identified, the suitability of the land in those areas will be based upon the guidelines and standards developed in accordance with the Coastal Area Management Act.

(C) *Fill areas.*

(1) Areas that have been used for disposal of solid waste shall not be subdivided into commercial or residential building sites unless tests by the Carteret County Environmental Health Department, a structural engineer, and a soils expert determine that the land is suitable for the type of construction proposed. This shall include those areas that have been used for the disposal of trash, demolition waste and other waste materials.

(2) In the event that a newly platted lot is not suitable for septic tank use, the letters "ST" and symbol shall appear on the platted lot indicating that the lot is not suitable for onsite septic systems:

PLAT SYMBOL TO IDENTIFY UNNUMBERED LOTS-AND

"Not suitable for development of septic tank systems."

§ 153.25 DESIGN STANDARDS FOR BOAT LAUNCHING RAMPS AND DOCKS.

All subdivisions adjoining a lake or similar water area shall provide for public access to the water. Access may include boat docks or boat launching ramps. The purpose of these facilities is to serve properties within the subdivision. The facilities shall meet the lot area requirements, off-street parking requirements and other applicable regulations established by the zoning chapter and shall be directly accessible to a state or city maintained street or road or a publicly used private road. Where a public boat dock or launching ramp is provided by the state, county, or other agency within or contiguous to the area to be subdivided, the facility may count toward meeting the requirements of this section.

§ 153.26 STORMWATER DRAINAGE.

(A) The subdivider shall provide an adequate drainage system for the proper drainage of all surface water.

(B) The design of a system shall be approved by the Town Planning Board and the North Carolina Sedimentation Pollution Control Act of 1973 and any locally adopted sediment control ordinances.

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

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

(3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage. The 10-year storm data should be used as a minimum basis for storm drainage design.

§ 153.27 PLACEMENT OF MONUMENTS.

(A) *Property corner tie.* At least one corner of the property surveyed shall be designated by course and distance (tie) from a control monument as established by the North Carolina Geodetic Survey (NCGS) or by the National Geodetic Survey (formerly USC & GS), when the property lies within 2,000 feet of a monument or marker is not available, the tie shall be made to some pertinent and readily recognizable land marker or identifiable point, physical object or structure. The tie must be shown on the prepared plat by bearing and distance and/or by coordinates, with a statement identifying the markers and certifying and accuracy of at least 1:10,000.

(B) *Markers.* All lot corners, all points where street lines intersect and all angle points and points of curve in each street shall be marked with rigid metal pipe not less than one-half inch in diameter and not less than 20 inches long. Concrete control markers are also acceptable.

(C) For the purpose of these regulations all land surveying shall be performed in accordance with the *Standard of Practice for Land Surveying in North Carolina*, latest revisions.

Editor's note:

G.S. §§ 39-32.1 through 39-32.4 repealed by Session Laws 2017-27, s. 2, effective July 1, 2017.

§ 153.28 CONSTRUCTION PROCEDURES.

(A) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and all preliminary plans and specifications have been approved by the Planning Board. Clearing underbrush and drainage surface and subsurface water is not included.

(B) The administrator of these regulations shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him or her to ensure compliance with these regulations.

(C) The subdivider, prior to starting any work within the subdivision, shall make arrangements with the administrator of these regulations to provide for adequate inspection. All completed work must then be inspected and approved before release of the sureties.

(D) The subdivider shall cause all grading, excavations, open cuts, side slopes and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected by plans approved under the Sedimentation Pollution Control Act of 1973.

(E) All public water systems under the jurisdiction of this chapter shall be built to the specifications of the Town of Bogue and West Carteret Water Corporation unless the system is tied into a municipal system.

(F) The Town shall not require existing power lines outside the subdivision to be buried as a condition for approval.

Penalty, see § 153.99

§ 153.31 WATER AND SEWER SYSTEMS.

(A) Where public water is not available, wells and/or other private water systems shall be constructed in accordance with the standards and specifications of the Carteret County Environmental Health Department, and applicable State of North Carolina regulations.

(B) Every lot in a subdivision shall be served by a well or water supply system and a sewage disposal system (including septic and package treatment systems) that:
Is adequate to accommodate the reasonable needs of the proposed use of the lot; and
complies with all applicable health regulations and standards for water and sewer facilities.

§ 153.32 FAMILY SUBDIVISION. DESIGN STANDARDS.

Lots within a family subdivision, as defined in § 153.06, may be approved by the administrator with access as outlined in this subsection, provided that all of the conditions delineated below are met:

(A) To qualify as a family subdivision, the property owner must provide proof that ownership of the tract to be subdivided has been in continuous ownership for a minimum of seven years;

(B) No more than four new lots may be created with access via an easement;

(C) The easement must be at least 20 feet wide and front on a public road, private road, or historical access. Historical access is defined as an access way that is referenced in a deed and shown on a recorded survey. The historical access must have been in use for a minimum of 20 years;

(D) That portion of the historical access that abuts the entire family property must be maintained by the owner of the family property;

(E) The easement must be a deeded access to the newly-created lots and must be recorded on a plat;

(F) The newly created lots must meet the minimum lot requirements of the zoning district or submit a rezoning request;

(G) The newly-created lot or lots may not be further resubdivided unless access can be upgraded to a private lane, private street, or public street. A notation shall be placed on the face of the plat that states:

"No additional lots, including the resubdivision of the lots served by the easement, shall be permitted unless the easement is upgraded by the property owner(s) to meet or exceed the standards of the Town of Bogue Subdivision Regulations. The lot(s) shown on this plat has (have) been created for the purpose of a family subdivision.;"

(H) A disclosure statement stating that maintenance of the access easement is the responsibility of the family property owner(s) shall be placed on the plat and shall read as follows:

"The maintenance of streets designated on this plat as "private" shall be the responsibility of property owners within this development having access to such roads. Private streets as shown hereon will not be included, for maintenance purposes, in the North Carolina highway system. Neither Carteret County, the North Carolina Department of Transportation, nor the Town of Bogue will maintain a private street."

(I) A recorded maintenance agreement shall be required in cases where more than one lot is served by the access easement;

(J) The access easement shall permit ingress, egress, and regress and necessary utilities required to serve the lot(s).

§ 153.33 EXPEDITED SUBDIVISION.

A subdivision plat shall only require a signature from a Town official or chairperson for approval if all of the following criteria are met:

- (A) The tract or parcel to be divided is not exempted under § 153.03(A)(3).
- (B) No portion has been divided under Part B of this section in the past 10 years.
- (C) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (D) No more than three lots result from the division.
- (E) All resultant lots comply with all of the following:

- (1) All lot dimension size requirements of the Town subdivision and zoning regulations.
 - (2) The use of the lots is in conformity with the Town zoning regulations.
 - (3) A permanent means of ingress and egress is recorded for each lot.
- (F) The property is under single ownership.

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

§ 153.45 TECHNICAL REVIEW.

All subdivision plans submitted to the town shall be subject to a technical review prior to preliminary approval by the Planning Board. The Technical Review Committee shall consist of two members from the Planning Board and the Zoning Officer. Additionally, the Technical Review

Committee will also solicit comments from the West Carteret Water Corporation, a representative of the Fire Department affording fire services to the proposed development, and from other state, federal and local agencies that may have regulatory jurisdiction over the area in some respects.

§ 153.46 GENERAL.

No plat of a subdivision within the jurisdiction of the Town of Bogue shall be accepted for recordation by the Carteret County Register of Deeds until final plat approval has been given by the Town of Bogue Planning Board and signed by the Planning Board Chairperson, Vice-Chairperson or Mayor or Mayor Pro Tempore in the absence of the Planning Board Chairperson. To obtain final approval of a final plat, the subdivider shall follow the steps in this section.

§ 153.47 SKETCH DESIGN PLAN.

When appropriate, the subdivider shall submit to the town a sketch plan prior to submitting a preliminary plat.

- (A) A minimum of four copies of a sketch design plan shall be submitted.
- (B) A sketch design shall be drawn at a scale of approximately one inch to 100 feet unless the size of the property dictates a larger scale.
- (C) The sketch design plan shall depict or show the information listed under plan requirements as shown below.

(D) Flood data certification shall be required.

(E) The Technical Review Committee shall review the sketch design plan for general compliance with the regulations and shall advise the subdivider or his or her authorized agent of the recommendations for improvement of the sketch design.

§ 153.48 REGULATION OF WATER LINES AND FIRE HYDRANTS.

(A) The owners and/or developers of all newly proposed subdivisions, multi-family residential projects, commercial subdivisions, and all non-residential development shall be required as a condition of final plat approval to install water lines not less than six inches in diameter within the street rights-of-way and utility easements as shown on the proposed subdivision or development plat so as to provide adequate water pressure for fire hydrants.

Fire protection. Every subdivision that is served by an approved water system shall include a water supply capable of supplying the required fire flow for fire protection, as per the current edition of the state fire code.

- (1) The code enforcement official (CEO) shall determine the precise location of all fire hydrants within the subdivision. The minimum spacing between fire hydrants shall be determined by the CEO in accordance with the current edition of the state fire code. In general, fire hydrants shall be located such that every lot within the subdivision is within 500 feet of a fire hydrant.
- (2) All hydrants shall be designed in accordance with state fire code and shall consist of national standard threads.
- (3) All fire hydrants shall be painted and marked according to National Fire Protection Association (NFPA) standards, unless approved by the code enforcement official after reviewing the data provided by the developer.

APPENDIX A: - INFORMATION REQUIRED WITH SUBDIVISION APPLICATIONS

A-1-1. - Number of review and filing copies to be submitted.

	Review	Filing(after approval)	
	# of prints	# of prints	# of mylars
Minor 1-lot	1	1	1
Minor subdivision plat	6	1	1
Preliminary plat, major subdivision	12	1	-

Final plat, major subdivision	7	2	1
Street and utility construction plans and profiles	As required by the Town, NCDOT, and the applicable utility provider		

Note: An electronic copy, in a format acceptable to Carteret County Register of Deeds, of all approved final major subdivision plats shall also be provided to the county. A description of the software and coordinate system used (e.g. State Plane, NAD 1983) should accompany the digital data submitted to the county.

§ 153.49 PLAT REQUIREMENTS

A preliminary plat and all required information, unless otherwise stated in this chapter, shall be submitted to the Planning Board at least 21 days prior to the regularly scheduled Planning Board meeting, for every subdivision of land located within the territorial jurisdiction of the Town of Bogue.

(A) *Number of copies.* Twelve blue or black line copies of the preliminary plat shall be submitted. Only one copy of additional required plans shall be submitted unless required by the Planning Board Chairperson or his or her designee.

(B) *Plat requirements.* Sketch, preliminary and final plats shall depict or contain the information indicated in the following. The letters "S," "P" and "F" shall indicate that the information is required for sketch, preliminary and final plats, respectively.

(1) S, P, F. A title block containing:

- (a) Name of the subdivision and phase (if applicable);
- (b) Name, address, telephone number of owner and owner's agent;
- (c) Date or dates survey was conducted and plat was prepared;
- (d) Scale denoted graphically and numerically;
- (e) Name and address of registered land surveyor, land planner, architect or engineer responsible for the subdivision. The registration number and seal of the responsible engineer or surveyor shall be required at final approval; and
- (f) Name of township, county, state in which subdivision is located.

(2) S, P, F. Sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area.

- (3) P, F. Tax parcel number of tract(s) to be divided.
- (4) S, P, F. North arrow according to G.S. § 47-30 and the *Standards of Practice for Land Surveying in North Carolina*.
- (5) S, P, F. Total acreage of tract to be subdivided.
- (6) S, P, F. Number of lots created and average lot size within subdivision.
- (7) P, F. Boundary survey of tract to be subdivided, distinctly and accurately represented with all bearings and distances shown.
- (8) S, P, F. Proposed lot lines, block number and dimensions of lots.
- (9) S, P, F. Existing and proposed property lines on the tract to be subdivided and on adjoining properties.
- (10) S, P, F. The names of adjacent landowners with lot, block or parcel identifier or other legal reference where applicable.
- (11) S, P, F. The names of any adjoining subdivisions of record or proposed and under review.
- (12) S, P, F. Existing structures on the tract to be subdivided.
- (13) S, P, F. Existing waterways, railroads, bridges, culverts, storm drains and corporate limits, county lines or township boundaries, both on the land to be subdivided and the land immediately adjoining.
- (14) P, F. Boundaries of applicable areas of environmental concern in accordance with the state guidelines for AEC's (15A NCAC 07H) pursuant to the Coastal Area Management Act and the name and location of all adjacent water bodies.
- (15) P, F. The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places.
- (16) P, F. The location of all primary nursery areas as defined by the N.C. Marine Fisheries Commission's N.C. Fisheries Regulations for Coastal Waters.
- (17) P, F. Location of all aircraft noise or aircraft accident potential zones (AICUZ).
- (18) P, F. Location of all wooded areas, 404 wetlands, rock outcrops, ponds, streams, or any other natural feature.
- (19) P, F. Location, and acreage of recreation area to be donated to the general public, or

location, acreage and location of improvements for recreation area to be maintained if land is to be donated in lieu of a fee.

(20) P, F. The exact location of the flood hazard boundary area, floodway and floodway fringe areas as determined by the Federal Emergency Management Agency's 100-year flood levels.

(21) F. All final plats shall be accompanied by signed stormwater management permit. This approved permit must be received by the Planning Department no later than the time of the scheduled meeting.

(22) P. Erosion and sedimentation control plans shall be submitted with the preliminary plat. All plans must conform to the Sedimentation and Pollution Control Act of 1973 and a letter of approval for the NCNRCD Division of Land Resources shall accompany the preliminary plats.

(23) P, F. The zoning classifications of the tract to be subdivided. Setbacks for the respective zoning classification shall be indicated on the plat.

(24) P, F. Minimum building lines shall be delineated on each lot within the subdivision or indicated by lot on the plat.

(25) P. Accompanying the preliminary plat shall be a permit from the U.S. Army Corps. of Engineers for all planned crossings of 404 wetlands within the subdivision.

(26) P, F. A note shall be included on the print that indicates if the proposed subdivision is to be served by central or individual water supply and central or individual sewage treatment systems shall be required.

(a) P. If on-site sewage treatment and disposal systems are proposed, individual lot-by-lot evaluations shall be made prior to preliminary plat approval. Upon application to the Environmental Health Department, the developer shall accurately map to scale, rough-stake and partially clear those lots to be evaluated by the Environmental Health Department.

(b) P. If a centralized sewage treatment system is proposed, a letter from the N.C. Division of Health Services or NCNRCD Division of Environmental Management (depending on the type of system) shall be presented with the preliminary plat. This letter shall state that a site investigation has been made and that the site is suitable for the proposed system. All plans for the proposed system shall be under review by the appropriate authority and a copy of the plans shall be presented to the County Environmental Health Department as requested.

(c) F. If a centralized sewage treatment system is proposed, a permit shall be presented from the proper permitting agency for the proposed system. If a permit has not yet been obtained, a letter from the proper permitting agency shall be presented which states that plans for construction of the facility have been approved.

(d) P. If a central water system is proposed, a letter shall be provided from the Division of Health Services stating that a site visit has been conducted and the well site has been approved. This letter shall be required upon preliminary approval.

(e) P. If a central water system is proposed, a well construction permit from the N.C. Division of Health Services shall be presented with the final plat.

(27) P, F. The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone, and electric service, illustrating connections to existing systems. Plans must show line sizes, the location of fire hydrants, blowoffs, manholes, pumps, force mains and gate valves, if appropriate, and shall include profiles based upon mean sea level datum for sanitary and storm sewers.

(28) P, F. The location and dimension of all planned road, utility, or drainage easements.

(29) P. The method of installation of utilities (underground or overhead) shall be indicated on the preliminary plat.

(30) P, F. The location, name, and dimension of all proposed and existing streets.

(31) P, F. Existing and platted dedicated streets, and rights-of-way on adjoining properties and within the proposed subdivision.

(32) P. Pavement widths.

(33) P. Design engineering data for all corners and curves, including sight distances.

(34) P. Typical street cross sections.

(35) P, F. Proposed names of all streets.

(36) P, F. Type of street dedication. All streets must be designated as either "public" or "private." Where public streets are involved, the subdivider must submit the subdivision map typical cross section to the NCDOT District Highway Office for review. These plans shall include: a complete site layout, including any proposed future expansion; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the district engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas. Street name signs shall be provided at all subdivision street intersections and at any other point within the subdivision as deemed necessary by the Planning Board. Signs shall be of a Town approved design and shall be ordered prior to final approval. Installation of the signs shall occur after final approval is granted.

(37) F. All final plats shall be accompanied by a written statement from a professional

engineer stating that the roads within the subdivision are paved and constructed to D.O.T. standards. This shall apply to all public and private roads. When a performance guarantee is presented to cover road improvement costs, this requirement shall be applied after the completion of road construction

(38) F. When streets are dedicated to the public but not accepted into the state system or privately dedicated for maintenance, a statement explaining the status of the street must be provided in accordance with § 153.21(K).

(39) P. If any street is proposed to intersect with a state maintained road, the subdivider must present written driveway approval as required by the NCDOT.

(40) P, F. Roadway length shall be indicated for each block and cul-de-sac within the subdivision. Length shall be indicated from intersection to intersection where applicable.

(41) F. All plats shall be required to provide sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line and setback line. These shall include dimensions, bearings or deflection angles, radii, central angles and tangent distance for the centerline of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest 20 seconds.

(42) F. Property corner ties, as required by G.S. § 47-30, shall be required as per this chapter.

(43) F. Monuments, markers and control points shall be accurately described and located.

(44) P. A topographic map with contour intervals of two feet or less may be required to accompany as specified by the Planning Board Chairperson.

(45) P, F. In waterfront developments, the areas to be dedicated to public water access shall be duly noted as per § 153.25.

(46) P, F. When deemed necessary due to the nature of the land to be subdivided or peculiarities in the proposed layout, an environmental impact statement may be required pursuant to G.S. Ch. 113 by the Planning Board.

(47) F. Deed restrictions or similar covenants proposed for the subdivision shall be presented prior to final approval.

(C) *Required information.* The preliminary plat shall depict or be accompanied by the following information; plats not illustrating or containing the following data shall be returned to the subdivider or his or her authorized agent for completion and resubmission:

- (1) The proposed name of the subdivision;

(2) A sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area;

(3) The boundary survey of the tract to be subdivided, distinctly showing all lengths and bearings;

(4) Scale denoted both graphically and numerically;

(5) North arrow and declination or 120 true of North Carolina grid;

(6) The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service (if available), illustrating connections to existing systems. Plans must show line sizes, the location of fire hydrants, blowoffs, manholes, pumps, force mains and gate valves, if appropriate, and shall include profiles based upon mean sea level datum for sanitary and storm sewers;

(7) Proposed streets, street names, existing and platted streets on adjoining properties and in the proposed subdivisions, rights-of-way, pavement widths, approximate grades, design engineering data, for all corners and curves and typical street cross sections. If any private street is proposed to intersect with a state-maintained road, the plat shall be accompanied by an application for driveway approval as required by the Department of Transportation, Division of Highways' Manual on driveway regulations;

(8) Existing and proposed property lines on the tract to be subdivided and on adjoining properties, existing buildings and other structures, waterways, railroads, bridges, culverts, storm drains on the land and corporate limits such as township boundaries and county lines;

(9) Date of plat preparation;

(10) The name of the township, county, and state in which the subdivision is located;

(11) Proposed lot lines, block number and approximate dimensions;

(12) Wooded areas, marshes, swamps, AEC's, rock outcrops, ponds, streams, or any other natural feature;

(13) The preliminary plat shall be accompanied by a copy of any proposed deed restrictions or similar covenants;

(14) The name, address and telephone number of the owner and owner's agent, registered surveyor, land planner, architect, landscape architect and engineer responsible for the subdivision;

(15) Erosion and sediment control plans shall be included with the preliminary plat. All plans must conform to the Sedimentation and Pollution Control Act of 1973 and be approved by the North Carolina Department of Environment and Natural Resources;

(16) Flood-prone areas (as determined for the 100-year flood levels determined by the Federal Emergency Management Agency);

(17) Pursuant to G.S. Ch. 113 the Planning Board may require the subdivider to submit an environmental impact statement due to the nature of the land to be subdivided or peculiarities in the proposed layout; and

(18) Contour map with intervals of two feet or less may be required to accompany the preliminary plat.

APPENDIX B CHART OF PLAT REQUIREMENTS

ITEM#	Sketch	Preliminary	Final	
1	X	X	X	Name of the subdivision and phase (if applicable);
2	X	X	X	Name, address, telephone number of owner and owner's agent;
3	X	X	X	Date or dates survey was conducted and plat was prepared
4	X	X	X	Scale denoted graphically and numerically
5	X	X	X	Name and address of registered land surveyor, land planner, architect or engineer sponsible for the subdivision. The registration number and seal of the responsible engineer or surveyor shall be required at final approval
6	X	X	X	Name of township, county, state in which subdivision is located
7	X	X	X	Sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area. Drawn at a scale of one inch to 100 feet unless the size of the property dictates a larger scale.
8		X	X	Tax parcel number of tract(s) to be divided.
9	X	X	X	North arrow according to G.S. § 47-30 and the Standards of Practice for Land Surveying in North Carolina.
10	X	X	X	Total acreage of tract to be subdivided
11	X	X	X	Number of lots created and average lot size within subdivision
12		X	X	Boundary survey of tract to be subdivided, distinctly and accurately represented with all bearings and distances shown
13	X	X	X	Proposed lot lines, block number and dimensions of lots.
14	X	X	X	Existing and proposed property lines on the tract to be subdivided and on adjoining properties
15	X	X	X	The names of adjacent landowners with lot, block or parcel identifier or other legal reference where applicable.
16	X	X	X	The names of any adjoining subdivisions of record or proposed and under réview
17	X	X	X	Existing structures on the tract to be subdivided.
18	X	X	X	Existing waterways, railroads, bridges, culverts, storm drains and corporate limits, county lines or township boundaries, both on the land to be subdivided and the land immediately adjoining.
18a	X	X	X	Current Flood Data Certification
19		X	X	Boundaries of applicable areas of environmental concern in accordance with the state guidelines for AEC's (15A NCAC 07H) pursuant to the Coastal Area Management Act of 1974 and the name and location of all adjacent water bodies
20		X	X	

			The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places.
21	X	X	The location of all primary nursery areas as defined by the N.C. Marine Fisheries Commission's N.C. Fisheries Regulations for Coastal Waters.
22	X	X	Location of all aircraft noise or aircraft accident potential zones (AICUZ).
23	X	X	Location of all wooded areas, 404 wetlands, rock outcrops, ponds, streams, or any other natural feature.
24	X	X	Location and acreage of recreation area to be donated to the general public, or location, acreage, and location of improvements for recreation area to be maintained if land is to be donated in lieu of a fee.
25	X	X	The exact location of the flood hazard boundary area, floodway and floodway fringe areas as determined by the Federal Emergency Management Agency's 100-year flood levels.
26		X	All final plats shall be accompanied by signed stormwater management permit. This approved permit must be received by the Planning Department no later than the time of the scheduled meeting.
27	X		Erosion and sedimentation control plans shall be submitted with the preliminary plat. All plans must conform to the Sedimentation and Pollution Control Act of 1973 and a letter of approval for the NCNRCD Division of Land Resources shall accompany the preliminary plats.
28	X	X	The zoning classifications of the tract to be subdivided. Setbacks for the respective zoning classification shall be indicated on the plat
29	X	X	Minimum building lines shall be delineated on each lot within the subdivision or indicated by lot on the plat.
30	X		Accompanying the preliminary plat shall be a permit from the U.S. Army Corps. Of Engineers for all planned crossings of 404 wetlands within the subdivision.
31	X	X	A note shall be included on the print that indicates if the proposed subdivision is to be served by central or individual water supply and central or individual sewage treatment systems shall be required
32	X		If on-site sewage treatment and disposal systems are proposed, individual lot-by-lot evaluations shall be made prior to preliminary plat approval. Upon application to the Environmental Health Department, the developer shall accurately map to scale, rough-stake and partially clear those lots to be evaluated by the Environmental Health Department.
33	X		If a centralized sewage treatment system is proposed, a letter from the N.C. Division of Health Services or NCNRCD Division of Environmental Management (depending on the type of system) shall be presented with the preliminary plat. This letter shall state that a site investigation has been made and that the

			site is suitable for the proposed system. All plans for the proposed system shall be under review by the appropriate authority and a copy of the plans shall be presented to the County Environmental Health Department as requested.
34		X	If a centralized sewage treatment system is proposed, a permit shall be presented from the proper permitting agency for the proposed system. If a permit has not yet been obtained, a letter from the proper permitting agency shall be presented which states that plans for construction of the facility have been approved.
35	X		If a central water system is proposed, a letter shall be provided from the Division of Health Services stating that a site visit has been conducted and the well site has been approved. This letter shall be required upon preliminary approval
36		X	If a central water system is proposed, a well construction permit from the N.C. Division of Health Services shall be presented with the final plat
37	X	X	The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone, and electric service, illustrating connections to existing systems. Plans must show line sizes, the location of fire hydrants, blowoffs, manholes, pumps, force mains and gate valves, if appropriate, and shall include profiles based upon mean sea level datum for sanitary and storm sewers.
38	X	X	The location and dimension of all planned road, utility or drainage easements.
39	X		The method of installation of utilities (underground or overhead) shall be indicated on the preliminary plat.
40	X	X	The location, name and dimension of all proposed and existing streets
41	X	X	Existing and platted dedicated streets and rights-of-way on adjoining properties and within the proposed subdivision
42	X		Pavement widths.
43	X		Design engineering data for all corners and curves, including sight distances
44	X		Typical street cross sections.
45	X	X	Proposed names of all streets
46	X	X	Type of street dedication. All streets must be designated as either "public" or "private." Where public streets are involved, the subdivider must submit the subdivision map typical cross section to the NCDOT Office for review. These plans shall include: a complete site layout, including any proposed future expansion; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the district engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and

			the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas. Street name signs shall be provided at all subdivision street intersections and at any other point within the subdivision as deemed necessary by the Planning Board. Signs shall be of a county-approved design and shall be ordered prior to final approval. Installation of the signs shall occur after final approval is granted.
47		X	All final plats shall be accompanied by a written statement from a professional engineer stating that the roads within the subdivision are paved and constructed to D.O.T. standards. This shall apply to all public and private roads. When a performance guarantee is presented to cover road improvement costs, this requirement shall be applied after the completion of road construction.
48		X	When streets are dedicated to the public but not accepted into the state system or privately dedicated for maintenance, a statement explaining the status of the street must be provided in accordance with § 153.21(K).
49	X		If any street is proposed to intersect with a state maintained road, the subdivider must present written driveway approval as required by the NCDOT.
50	X	X	Roadway length shall be indicated for each block and cul-de-sac within the subdivision. Length shall be indicated from intersection to intersection where applicable
51		X	All plats shall be required to provide sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line and setback line. These shall include dimensions, bearings or deflection angles, radii, central angles, and tangent distance for the centerline of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-one hundredth of a foot and all angles to the nearest 20 seconds.
52		X	Property corner ties, as required by G.S. § 47-30, shall be required as per this chapter
53		X	Monuments, markers, and control points shall be accurately described and located
54	X		A topographic map with contour intervals of two feet or less may be required to accompany as specified by the Planning Board Chairperson
55	X	X	In waterfront developments, the areas to be dedicated to public water access shall be duly noted as per § 153.25.
56	X	X	When deemed necessary due to the nature of the land to be subdivided or peculiarities in the proposed layout, an environmental impact statement may be required pursuant to G.S. Ch. 113 by the Planning Board.
57		X	

Deed restrictions or similar covenants proposed for the subdivision shall be presented prior to final approval.

§ 153.50 REVIEW PROCEDURE.

(A) The Planning Board shall review and take action on each preliminary plat within 45 days after first consideration by the Planning Board.

(B) Before taking final action on the plat the Planning Board will submit copies of the plat and any other accompanying materials to the following agencies if deemed appropriate by the Planning Board Chairperson:

(1) The district highway engineer as to proposed streets, highways, and drainage systems;

(2) The County Health Department as to proposed water and sewage systems;

(3) The Mayor;

(4) The Carteret County School Board as to proposed school sites;

(5) The local CAMA officer;

(6) The North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries, Army Corps of Engineers and Division of Coastal Management, if the proposed subdivision contains waterfront lots or property and/or canals are to be excavated or property is to be filled and bulkheaded. These agencies should make the initial review on waterfront subdivisions;

(7) The U.S. Soil Conservation Service as to soil analysis and drainage; and/or

(8) Other agencies the Planning Board Chairperson may deem necessary.

§ 153.51 DEVELOPMENT IN STAGES.

When a subdivision is to be developed in stages, a sketch plan may be required. The preliminary plat shall be submitted with a minimum of five lots for each stage. Approval of the preliminary plat shall become null and void after 12 months if the developer does not submit the final plat unless an extension of time is applied for and granted by the Planning Board. This requirement is not to be construed as prohibiting a subdivider from retaining any portion of a tract, a part of which is to be subdivided acreage.

§ 153.52 CERTIFICATE; DISAPPROVAL.

If the preliminary plat is disapproved, the Planning Board shall specify the reasons for action in writing. One copy of the reasons shall be retained by the Planning Board and one copy shall be given to the subdivider. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat.

§ 153.53 FINAL PLAT.

(A) *Approval.* Upon approval of the preliminary plat by the Planning Board the subdivider may proceed with the preparation of the final plat, and the installation and arrangements for required improvements or guaranteed their installation.

(B) *Performance guarantee.* When the required improvements have not been completed prior to submission of the final plat, the developer is required to guarantee the completion of the required improvements by means satisfactory to the Planning Board Chairperson in consultation with the developer's engineers and/or surveyors in an amount equal to 125% of the reasonably estimated cost of completion of the required improvements at the time the performance guarantee is issued. The duration of the performance guarantee shall initially be one year. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion. One of the following methods listed below shall be used to guarantee the installation or construction of required improvements.

- (1) Surety bond issued by any company authorized to do business in this state.
- (2) Letter of credit issued by any financial institution licensed to do business in this state.
- (3) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(C) Repealed

(D) *The final plat.* The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time; that portion shall conform to all the requirements of these regulations.

(E) *Plat submitted.* The subdivider shall submit the final plat, so marked, to the Planning Board not less than 21 days prior to the Planning Board meeting, at which time it will be considered for approval. The final plat shall not be submitted more than 12 months after the date on which the preliminary plat was approved, otherwise approval shall be null and void, unless a written extension of this time limit is granted by the Planning Board on or before the one-year

anniversary date of approval.

(F) *Plat prepared.* The final plat shall be prepared by a land surveyor licensed and registered to practice in North Carolina. The final plat shall conform to the preliminary plat as it was approved.

(G) *Number of copies.* Seven copies of the final plat shall be submitted. One of these shall be suitable for reproduction to be submitted after recording with the Register of Deeds. Six shall be black or blue prints. *See Appendix A*

(H) *Marginal size.* Final plats shall have an outside marginal size of 24 inches by 36 inches.

(I) *Fees.* Submission of the final plat must be accompanied by the appropriate filing fee as determined by Carteret County.

(J) *Required certification.* The following signed certificates shall appear on all copies of the final plat which are submitted to the Planning Board by the subdivider: Time limit, six months.

(1) *Certificate of ownership and dedication.*

I (we) hereby certify that I am (we are) the owner(s) of the property described hereon, which is located in the subdivision jurisdiction of Bogue and that I hereby adopt this subdivision plan with my free consent, established minimum building setback lines and dedicate all streets, alleys, walks, parks and other sites and easements to public or private use as noted.

Date Owner(s)

(2) *Health department evaluation.*

Based on general soil evaluations, this _____ subdivision appears to be suitable for septic tanks subject to individual lot evaluation.

Date Owner(s)

(3) *Certificate of survey and accuracy.*

I, _____ certify that this map was (drawn by me)* (drawn under my supervision)* from (an actual survey by me)* (an actual survey made under my supervision)* (deed description recorded in Book ____, Page ____; etc.)* (other)*; that the ratio of precision as calculated by latitudes and departures is 1/_____. Witness my hand and seal this ____ day of _____, 20__.

Registered Surveyor

License or Registration Number

(4) *Declaration of road design and construction (subdivider to maintain roads).*

I hereby declare that, to the best of my knowledge, the non-state maintained road(s) allowed under §§ 153.20 *et seq.* and which are a part of this subdivision have been designed and (will be) built to the standards of this chapter. I also hereby declare that once the road(s) is constructed to the required standards, I will (no longer) be responsible for maintenance. Nor do I hold Bogue or the State of North Carolina responsible for maintenance of these roads.

(5) *Written document.*

(a) By written document sufficient for recording in the Register of Deeds, either an owner's association is created and established by the subdivider through the recording of restrictive covenants or other documents creating the association, or an agreement satisfactory to the Planning Board is provided by the developer, for the perpetual ownership and/or maintenance of streets and right-of-way within the subdivision, and/or which provides exclusive access to the subdivision for all future lot owners, then the streets and rights-of-way may be designated as "private residential streets."

(b) In those cases the subdivider shall grant or dedicate to either the owner's association or to the property owners within the subdivision a right-of-way for all streets within the subdivision in accordance with the private residential street standards set forth hereafter, but the subdivider shall not be required to dedicate the street or right-of-way for public use. All private residential streets shall be designed and constructed in accordance with the standards set forth in this section.

(6) *Disclaimer.* If any wetland areas are located on the final plat, the following disclaimer shall be required.

"This certifies that this copy of this plat accurately depicts the boundary of the jurisdiction of Section 404 of the Clean Water Act pursuant to the 1987 Corps of Engineers wetlands delineation manual as determined by the undersigned on this date. Unless there is a change in the law or our published regulations, this determination of Section 404 jurisdiction may be relied upon for a period

of five years from the date," or other applicable statement by the U.S. Army Corps of Engineers.

Signature of U.S. Army Corps of Engineers Official

Date of Signature

(K) *Final plat contents required.* The final plat shall depict or contain the information provided in plan requirements listed above. Plats not containing the following data shall be returned to the subdivider for completion or resubmission:

- (1) The name of the subdivision;
- (2) The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings and the location of intersecting boundary lines of adjoining land;
- (3) Scale denoted both graphically and numerically;
- (4) Plans for utility layouts, including sewers, storm sewers, water distribution lines, natural gas, telephone, and electric service illustrating connections to existing systems for individual water supply systems shall accompany the final plat. Plans must show line sizes, location, and gate valves. Utility and drainage easements shall be shown on the final plat, if available;
- (5) Street names, designated public or private. Street name signs shall be provided at all subdivision street intersections and at any other point within the subdivision as deemed necessary by the Planning Board. Signs shall be of a county-approved design and shall be installed prior to final plat approval;
- (6) The location, purpose, and dimensions of areas to be used for purposes other than residential;
- (7) Building setback lines with dimensions;
- (8) The names of owners of adjoining properties and any adjoining subdivisions;
- (9) The locations and dimensions of all rights-of-way, pavement widths of all streets and the location and width of all adjacent streets, all utility or other easements, all easements on adjoining properties, riding trails, natural buffers, paths and areas to be dedicated to public use with the purpose of each stated;
- (10) Property lines, watercourses, railroads, corporate limits, township and county boundaries;
- (11) Engineering data sufficient to determine on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings and radii, central angles and tangent distances for the center line of curved property lines that are not the boundary of curved streets. All dimensions shall be measured to

the nearest one-one hundredth of a foot;

(12) Accurate locations and descriptions of all monuments, markers, and control markers;

(13) Blocks numbered consecutively throughout the subdivision and lots numbered consecutively throughout each block;

(14) Deed restrictions or similar covenants proposed for the subdivision;

(15) Flood-prone areas (as determined by the 100-year flood levels);

(16) Date of survey, plat preparation, north arrow, and declination; and

(17) All certificates as required by this division (division (K)).

(L) *Review procedure.* Final plats shall be reviewed under the following procedure:

(1) The Planning Board shall approve or disapprove the final plat within 45 days of its first consideration. If the Planning Board approves the final plat, approval shall be indicated on each copy of the final plat by the following signed certificate:

Certificate of Approval by the Planning Board: The Bogue Planning Board hereby approves the final plat for the _____ subdivision.

Date Chairperson, Bogue Planning Board

(2) The Planning Board Chairperson shall also indicate approval of the final plat by the following signed certificate:

"I hereby certify that the subdivision plat shown hereon has been found to comply with the Bogue Subdivision Regulations, with the exception of such variances, if any, as are noted in the minutes of the Planning Board and that it has been approved for recording in the office of the Register of Deeds. It is hereby noted that approval for recordation does not include approval to install and utilize sanitary facilities nor does it include approval for the construction or occupancy of buildings or structures."

(3) If the Planning Board disapproves the final plat, the Planning Board shall state in writing its reasons for that action. One copy of this statement shall be transmitted to the subdivider within 15 days of disapproval; one copy shall be retained by the Planning Board; one copy shall be sent to the Register of Deeds. If the final plat is disapproved, the subdivider may make changes as will bring the final plat into compliance with these regulations and resubmit same for reconsideration by the Planning Board.

(4) If the final plat approval is denied, the applicant may appeal to the superior court

within 30 days from receipt of written notice of the decision as provided by NCGS 160D-403(b).

(5) If the Planning Board fails to take action within 45 days of its first consideration the plat shall be deemed approved.

(M) *Distribution of copies.* When the final plat is approved by the Planning Board, the original and one print shall be returned to the subdivider. One reproducible copy shall be filed with the Register of Deeds and one reproducible copy shall be retained by the Planning Board

(N) *Abbreviated procedure.* The abbreviated procedure affords the sale of lots and/or tracts of land which qualify as subdivisions under the definition in the state statutes, but which have little impact on the county. Subdivisions of lands which involve no street right-of-way dedication, no utility extensions, five lots or less and five total acres or less may follow the abbreviated procedure, which only requires that a final plat be submitted for approval. If the area proposed for subdivision is part of a larger tract which the subdivider owns, has an option on or legal interest in, the subdivision shall not qualify under abbreviated.

(O) *Recording of the final plat.* The subdivider shall file the approved final plat with the Register of Deeds of Carteret County for recording within six months after the date of Bogue Planning Board approval; otherwise, approval shall be null and void.

(P) *Resubdivision procedures.* For any replatting or resubdivision of land, the same procedure, rules, and regulations shall apply as prescribed herein for an original subdivision except that lot sizes may be varied on an approved plat after recording provided that:

- (1) No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plat;
- (2) Drainage, easements, or rights-of-way shall not be changed;
- (3) Street alignment and block sizes shall not be changed;
- (4) Property lines between the back of the lots shall not be changed;
- (5) The rear portion of lots shall not be subdivided from the front part; and
- (6) The character of the area shall be maintained.

§ 153.54 VARIANCES AND ABBREVIATED APPROVAL PROCEDURES FOR SUBDIVISION PLATS.

(A) *Variance procedures.* The Bogue Planning Board may authorize a variance from the terms and conditions of this chapter when the Planning Board finds that undue hardship may result from strict compliance with the terms and conditions of this chapter. Any requests for a variance shall be signed by the subdivider or his or her duly authorized representative and shall specify in detail the requested variances and the facts and justification for the requested variance.

(1) The variance request shall be accompanied by a sketch plan or sketch design meeting the requirements of § 153.47(E). The variance request shall be presented at the same time the sketch plan or design is considered by the Planning Board.

(2) Following consideration of the variance request, the Planning Board may either approve or deny the variance request in whole or in part. In the event the Planning Board grants a variance, it shall be the minimum variance necessary in order to allow the applicant reasonable use of his or her land. Any variance granted by the Planning Board shall require an affirmative vote of two-third's members of the Board present at the meeting in which the variance is requested.

(B) *Required findings.* In granting any variance, the Planning Board shall make the findings required below, taking into account the nature of the proposed subdivision and its surrounding area, the existing use of the land in the vicinity, the number of persons to reside or work in the proposed subdivision, the probable effect of the proposed subdivision upon traffic conditions in the vicinity, public services available to the subdivision (fire, rescue squad, public utilities and the like) and other health and safety factors which may have an effect upon the subdivision and the property owners and residents therein in the event the variance is granted unless the Bogue Planning Board finds from the evidence:

(1) That there are special circumstances or conditions affecting the property so that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;

(2) That the variances are necessary for the preservation and enjoyment of a substantial property right of the applicant;

(3) That the circumstances giving rise to the need for the variance are peculiar to the parcel of land, its location or history of development of surrounding properties and are not generally characteristic of other parcels in the jurisdiction of this chapter; or

(4) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which the property is situated.

§ 153.99 PENALTY.

After the effective date of these regulations, any person who, being the owner or the agent of any land located within the jurisdiction of these regulations, intentionally violates these regulations, shall be guilty of a misdemeanor, for the conviction of which, the maximum penalty permitted by law may be imposed. Each day's continuing violation is a separate and distinct offense.

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

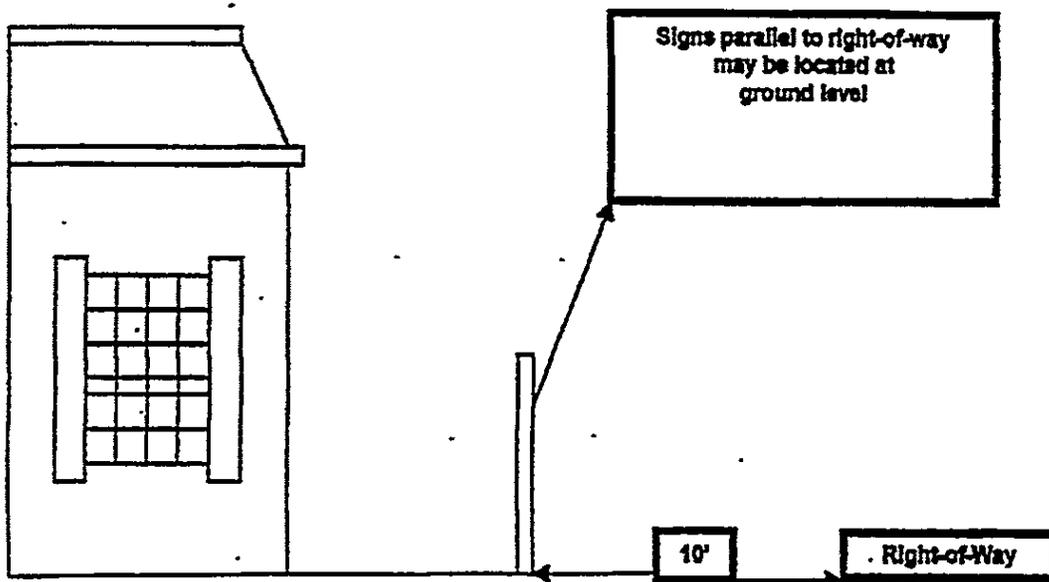
3. The height of a ground or pole on-premise sign shall not exceed 20 feet in height from the grade of the right-of-way or surface grade beneath the sign, whichever is less. The clearance of a ground or pole on-premise sign shall not be less than eight feet from the grade of the right-of-way or finished 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
	Area	Width	Front	Rear	Side		Height
	(Sq. Ft.)	(feet)	Yard	Yard	Yard		(feet)
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

Adopted July 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	S	S					
Animal Hospital/Veterinary Clinic	P		P				
Animal Kennel	S	S	S	S			
Artisan Studio	S		S				
Auction Facility	S	S					
Automobile/Boat Washing Establishment	S						
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						
Cabinet and Woodworking Shop	P	P					
Cemetery			P	P			
Church or Religious Complex	S		P	S	S	S	
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	S						
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		S					
Mining/Extraction/Excavation				S			
Offices, General	P		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	S						
Retail	S						

Sale of Alcoholic Beverages in Retail Establishments	P						
Standalone ATM/Vending	P						
Telecommunication Towers		S					
Temporary Uses	S	S	S	S	S	S	S
Vehicle, Repair Facility	P	S					
Vehicle, Sales	S						
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			S	S	S
Animal Hospital/Veterinary Clinic			P	P	S
Animal Kennel			P	P	S
Artisan Studio			S	S	S
Auction Facility			P	P	S
Automobile/Boat Washing Establishment		S	S	S	S
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
Cabinet and Woodworking Shop			P	P	P
Cemetery	P	P	P	P	P
Church or Religious Complex			P	P	
Daycare Center			P	S	
Distilleries	S				

Dry Cleaning/Laundry Establishment			P	P	P
Dwelling, Duplex			P	S	
Dwelling, Multi-Family			P	S	
Dwelling, Single-Family			P	S	
Entertainment Facilities			S	S	
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		S	S	S	S
Mining/Extraction/Excavation			P	P	P
Offices, General			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			S	S	S
Retail			S	S	S
Sale of Alcoholic Beverages in Retail Establishments			P	P	P
Standalone ATM/Vending			P	P	P
Telecommunication Towers			P	P	P
Temporary Uses		S	S	S	S
Vehicle, Repair Facility		P	P	P	P
Vehicle, Sales		S	S	S	S
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

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