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Zoning Ordinance
of the County of New Hanover, North Carolina

ENACTMENT:

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR CERTAIN AREAS OF THE COUNTY OF NEW HANOVER, NORTH CAROLINA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AMENDMENT OR REPEALING THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF NORTH CAROLINA GENERAL STATUTES AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

PREAMBLE:

WHEREAS, the General Statutes of North Carolina empowers the County of New Hanover to enact a Zoning Ordinance and to provide for its administration, enforcement, amendment or repealing, and

WHEREAS, the County Commissioners deem it necessary, for the purpose of promoting the health, safety, morals or general welfare of the County to enact such an Ordinance, and

WHEREAS, the County Commissioners have appointed a Planning Board to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Board has divided the County into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion throughout the County; to secure safety from fire, panic and other dangers; to promote health and the general welfare, to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, and

WHEREAS, 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 County, and

WHEREAS, the Planning Board has submitted its final report to the County Commissioners, and

WHEREAS, the County Commissioners have given due public notice of hearings relating to zoning districts, regulations and restrictions, and have held such public hearings, and

WHEREAS, 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 County Commissioners have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY OF NEW HANOVER, NORTH CAROLINA AS FOLLOWS:
ARTICLE I: IN GENERAL

Section 10: Authority

The provisions of this Ordinance are adopted under authority granted by the General Assembly of North Carolina.

Section 11: Jurisdiction

The regulations set forth in this Ordinance shall be applicable within the planning jurisdiction of the unincorporated County of New Hanover (5/4/09).

This Ordinance shall in no way regulate, restrict or prohibit any bona fide farm and its related uses, except that any such use of property for non-farm purposes and uses otherwise authorized by statutory or local legislation (5/4/09) shall be subject to such regulations.

Section 12: Title

This Ordinance shall be known as The Zoning Ordinance of the County of New Hanover, North Carolina and may be cited as the zoning ordinance.
ARTICLE II: DEFINITIONS

Section 20: General

20-1: For the purpose of this Ordinance certain terms or words used herein shall be interpreted as follows:

Section 21: Tense and Number

21-1: The present tense includes the future tense and the future tense includes the present tense.

21-2: The singular number includes the plural number and the plural number includes the singular number.

Section 22: Word Interpretations

22-1: The word "may" is permissive.

22-2: The words "shall" and "will" are mandatory.

22-3: The word "County" shall mean the County of New Hanover, North Carolina.

22-4: The words "Zoning Board," "Zoning Commission" or "Planning Board" shall mean the New Hanover County Planning Board.

22-5: The words "County Commissioners" shall mean County Commissioners of New Hanover County, North Carolina.

22-6: The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

22-7: The words "used" OR "occupied" include the words intended, designed or arranged to be used or occupied.

22-8: The word "lot" includes the words plat or parcel.

Section 23: Definitions

Accessory Building or Use - A use or structure of a nature customarily incidental and subordinate to the principal use or structure. (9/12/83) (23-1)
Administrator, Zoning - The provisions of this Ordinance shall be administered and enforced by the New Hanover County Planning and Land Use Director. The Planning and Land Use Director may delegate this duty to the Zoning Enforcement Officer. (11/2/87) (23-2)

Adult Day Care Facility - An Adult Day Care Facility is a center or place operated by a person, corporation, organization or association which receives a payment, fee or grant for the care of more than five (5), but not more than fifty (50), adults eighteen (18) years of age or more for more than four (4) hours per day, but not to exceed twenty-four (24) hours at one time. Services must be provided in a home or facility certified to meet State standards and shall be provided for the following individuals:

(A) Adults who do not need nursing care but who require complete, full-time daytime supervision
(B) Adults who need assistance with activities of daily living in order to maintain themselves in their own homes; and
(C) Adults who need intervention in the form of enrichment and opportunities for social activities in order to prevent deterioration that would lead to institutionalization. (6/6/77) (23-53)

Adult Entertainment Establishment - Retail or service establishments which are characterized by an emphasis on specified sexual activity and/or specified anatomical areas, including, but not limited to:

(A) Any bookstore, video store, or other establishment in which a substantial portion of its stock in trade is devoted to printed matter or visual representation of specified sexual activities or specified anatomical areas;
(B) Any movie theater offering movies or other displays, or any establishments offering coin-operated devices, which emphasize specified sexual activities or specified anatomical areas.
(C) Any cabaret, club, tavern, theater, or other establishment which offers any entertainment emphasizing specified sexual activities or specified anatomical areas.
(B) Any establishment offering massage or similar manipulation of the human body, unless such manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the State. This definition does not include massages or similar manipulation offered at an athletic club, health club, school, gymnasium, spa, or similar establishments. (23-90)

Bed and Breakfast Inn - Any place of lodging that provides five (5) or fewer rooms for rent, is the owner’s personal residence, and is occupied by the owner at the time of rental. (23-127)
Boats and Boating Facilities

**Boat** - A vessel or watercraft of any type or size specifically designed to be self-propelled, whether by engine, sail, oar, or paddle or other means, which is used to travel from place to place by water. (4/2/84) (23-76)

**Residential Private Pier** - A dock, pier, launching ramp and/or supportive boating activity extending from a residential lot into water adjacent thereto; the use of which shall be limited to members of the family of the lot owner or his tenant and/or their invited guests. (7/7/80) (23-61)

**Community Boating Facility** - A private, non-profit boating facility including a dock, pier and/or launching ramp on property having water frontage; the use of which is intended to serve five or more residential lots or residential units. The right to use such a facility must be conferred by an easement appurtenant to the residential lot it is intended to serve. No commercial activities of any kind shall be allowed within the confines of the facility. (10/19/92) (23-62)

**Private Residential Boating Facility** - A private non-profit boating facility including a dock, pier and/or launching ramp on property having water frontage, the use of which is intended to serve less than five residential lots or residential units. The right to use such facility must be conferred by easement appurtenant to the residential lot it is intended to serve. No commercial activities of any kind shall be allowed within the confines of the facility. (10/19/92) (23-62.1)

**Commercial Marina** - Any dock or basin and associated structures commercially providing permanent or temporary harboring or storing of two (2) or more boats (pleasure and/or commercial), and providing marine services, included but not limited to retail sales for fuel, repair, convenient food stuffs, boats, engines, and accessory equipment. (6/16/86) (23-63)

**Buildable Area** - The portion of a lot remaining after required yards have been provided. (23-3)

**Building Height** - The vertical distance measured from the average elevation of the proposed finished grade at the front of the structure to the mean level of the slope of the main roof. (23-4)

**Cabinet and Woodworking Shops** - Establishments engaged in manufacturing cabinets, fabricated mill work, hardwood dimension, and related wood products, but excluding furniture manufacturing and the processing of raw logs from the field. (10/6/86) (3/8/93) (23-81)
Cemetery - Parcel of land used for the permanent interment of one (1) or more dead human bodies and uses customarily incidental to the operation of a cemetery. (2/3/92) (23-97)

Child Care Center – An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care, unless excluded by NCGS § 110-86(2). (10/7/13)

Church, Club or Private Lodge - An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational or like activities, operated on a non-profit basis for the benefit of its members, and certified as a non-profit organization by the Secretary of State of the State of North Carolina. (23-5)

Critical Area - The area adjacent to a water supply intake or reservoir here risk associated with pollution is greater than from remaining areas of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the surface water in which the intake is located or to the ridge line of the watershed, whichever comes first; or, one-half mile upstream form the intake located directly in the stream or run-of-the-river or the ridge line of the watershed, whichever comes first. (11/1/93) (23-103)

Density Factor - An intensity measure expressed as the number of units per "net buildable site acre" (as calculated pursuant to Section 69.4(3)). The density factor establishes the permitted density on the buildable portion of a High Density Development site. (3/22/82) (23-67)

Diameter at Breast Height (DBH) – The diameter or width of the main stem of a tree as measured 4.5 feet above the natural grade at its base. Whenever a branch, limb, defect, or abnormal swelling of the trunk occurs at this height, the diameter at breast height (DBH) shall be measured at the nearest point above or below 4.5 feet at which a normal diameter occurs. (11/04/19)

District - Any section of the County of New Hanover in which regulations are uniform. (23-6)

Disabled Persons – Individuals with disabilities, including individuals recovering from alcoholism and/or drug addiction, who are protected by either the provisions of the Americans with Disabilities Act of 1990, 42 USC 12101, the Fair Housing Act, 42 USC 3601 et. seq., or NCGS Chapter 168, Article 3, as each may be amended. (12/14/15)

Dry Stack Storage – Vertical storage of boats in a rack system, providing for storage of at least 2 layers of boats. (1/7/08) (23-63.1)

Dwelling, Single Family - A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family only. (23-7)

Dwelling, Single-family Attached - An attached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family only. (1/4/82) (23-64)
Dwelling, Two-Family (Duplex) - A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families. (23-9)

Dwelling, Mobile Home - Mobile home means a movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy, which includes one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or of two (2) or more units separately towable but designed to be joined into one (1) integral unit, and not complying with the North Carolina State Uniform Residential Building Code. (2/8/82) (23-8)

Dwelling, Mobile Home, Doublewide - Mobile home built and transported on two (2) or more separate chassis, designed to be joined into one (1) integral unit that measures at least 24 feet by 40 feet; has a gabled roof; is permanently affixed to a continuous permanent masonry foundation unpierced except for required ventilation and access; has all its wheels, axles, transportation lights and towing apparatus removed. (6/7/82) (23-8.5)

Dwelling Unit - One (1) or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. (23-11)

Electricity Generating Facility- A stand-alone plant not ancillary to another land use which generates electricity to be distributed to consumers, including but not limited to fossil fuel burning facilities and wind power farms. This definition shall not include electricity produced at or on an agricultural farm, residence, business, or other facility where use of the electricity so produced is limited primarily to on-site consumption. Solar power farms are Electricity generating facilities; however, for purposes of this ordinance they are considered a separate use in the Table of Permitted Uses.

Electronic Gaming Operation - A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic Gaming Operations do not include any lottery approved by the State of North Carolina. (5/3/10)

Family- One (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over three (3) persons (6/5/89), but further provided:

(A) that domestic servants employed on the premises may be housed on the premises without being counted as part of the family residing on the premises; and
(B) that a foster home as designated by the North Carolina Department of Social Services for the care of not more than five (5) children less than eighteen (18) years of age be considered as family. (12/2/74)

(C) that any child less than eighteen (18) years of age living with parent(s) or legal guardian is not to be counted as a person in calculations hereunder. (23-12)

Family Child Care Home – An arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care, unless excluded by NCGS § 110-86(2). (10/7/13)

Farmers Market - A collective enterprise selling directly to the public and operated under a unified set of management guidelines and restrictions, concentrated in a single location, and leasing or otherwise assigning spaces to growers/producers who personally sell fresh produce and related farm products locally grown off site. (12/6/10)

Floating Structure - Any structure or vessel in fact used, designed and occupied as a permanent dwelling unit, business or source of any occupation or any private or social club, which floating structure or vessel is primarily immobile and out of navigation or which functions substantially as a land structure while the same is moored or docked on waters within County jurisdiction; whether such floating structure is self-propelled or not. (4/2/84) (23-77)

Flood Plain - That area which experience has shown to be or which expert opinion holds likely to be, subject to high water conditions connected with tide, storm or seasonal changes. (23-13)

Floor Area Ratio (FAR) - Floor Area Ratio equals the total floor area of all structures located on lot divided by the gross lot area. (2/7/83)

\[
FAR = \frac{\text{TOTAL FLOOR AREA OF ALL STRUCTURES ON A LOT}}{\text{GROSS LOT AREA}}
\]

Foundation Plantings - A required planting area between the curb line or edge of a parking facility or drive isle and the building's facade. (7/01) (23-107)

Fraternities/Sororities Residential - A building or structure occupied and maintained for residential uses exclusively for college or university students who are members of a social, honorary, or professional organization which is chartered by a national, fraternal or sororal order. (6/18/90, 3/10/14) (23-93)

Fuel Bulk Storage Facilities - A facility whose primary purpose is the storage, distribution, mixing, or transfer of flammable or combustible liquids, gases, or solids, received or transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank or containers, or other method, including propane, methane, ethanol, gasoline, kerosene, oil, coal, and other fuels. This definition shall not include filling stations used solely for distribution to individual consumers; nor shall it include fuel stored at or on an agricultural farm, residence, business, or other facility where use of the same is limited primarily to on-site consumption.
Fuel Pump Island - A fuel pump island consists of any device or group of devices used for dispensing motor fuel or similar petroleum products to the general public. For the purpose of determining setback distances required by this Ordinance, the outer edge of any supportive structure (concrete or other types of bases), physically connected to a fuel pump and the ground, shall be the part of the fuel pump island from which all such measurements are made. Minimum setback distances shall be determined by measuring a straight line distance from the nearest point of the required reference boundary (i.e., street right-of-way, zoning district boundary, or property line) to the closest edge of the fuel pump island. (7/3/78). Setback distances from street right-of-way may be reduced by one-half. (7/10/89) (23-54)

Group Home – A home in which more than three (3) unrelated Disabled Persons live together as a self-supporting and self-sufficient household unit. (12/14/15)

Hazardous Materials - Any substance listed as such in the Superfund Amendments Reauthorization Act (SARA), Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances). (11/1/93) (23-101)

High Density Development - Any residential development which exceeds the density limit established in the applicable zone. (3/22/82) (23-66)

Historic Restaurant - A restaurant facility which is located upon a site which is presently used for restaurant purposes and which has been in continuous use and operation for restaurant purposes since the date of the initial zoning classification of said site pursuant to the official zoning map of New Hanover County. (10/7/91) (23-96)

Home Occupation - An occupation for gain or support customarily conducted on the premises by a person or family residing thereon provided:

(1) Only one (1) person other than members of the family residing on the premises shall be engaged in such occupation;

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two and one-fourth (2 1/4) sq. ft. in area, non-illuminated, and mounted flat against the wall of the principal building;

(4) No home occupation shall be conducted in any accessory building;

(5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in any
required yard. Vehicles used primarily as passenger vehicles including pickup trucks and step-type vans only shall be permitted in connection with the conduct of the customary home occupation;

(6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, or electrical interference detectable to the normal senses off the lot. In the case of the electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltages off the premises; (9/8/81)

(7) No display of products shall be visible from the street and the selling of merchandise or the manufacture of merchandise for sale except baking, sewing, and/or handicrafts normally made in the home cannot be the primary function of the home occupation; and

(8) Instruction in music, dancing, or tutoring of academic subjects shall be limited to four (4) students at a time. (4/21/75) (23-16)

**Hotel/Motel** - An establishment containing multiple guest rooms designed without independent cooking facilities and intended for temporary lodging, entertainment and various personal services for pay to the traveling public. (11/15/82) (23-72)

**Hotel/Motel (Resort)** - An establishment containing multiple guest rooms designed with independent cooking facilities and intended for temporary lodging, entertainment and various personal services for pay to the traveling public. (1/4/83) (23-73)

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**Inoperative Motor Vehicle** - A motor vehicle which meets only one of the following criteria:

(A) Is presently unable to satisfy the vehicle inspection standards of the State of North Carolina, regardless of whether said vehicle possesses a currently valid inspection certificate. Motor vehicles which lack such an inspection certificate, or which display an expired certificate, shall be presumed to be inoperative; or

(B) Is partially dismantled or wrecked; or

(C) Cannot be self-propelled or moved in the manner in which it originally was intended to move. (11/3/86) (23-82)

**Junk** - The term junk shall be defined as old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or non-ferrous material. (10/6/75) (23-15)

**Junk Yard** - An establishment or place of business maintained, operated or used for storing, keeping, buying or selling of junk. The term junk shall be defined as old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or non-ferrous material. (10/6/75) (23-15)
**Kennel** - An establishment wherein any person engages in business or practice, for a fee, of boarding, breeding, grooming, letting for hire, or training of more than three (3) domesticated animals at any one time; or an establishment wherein any person engages in the business or practice, for a fee, of selling more than one (1) litter of domesticated animals at any one time or the selling of any three (3) individual domesticated animals (not defined as litter herein) at any one time. Domesticated animals, for the purpose of this Ordinance, shall be defined as dogs, cats, and other generally acceptable household pets. Litter, for the purpose of this Ordinance, shall be defined as the progeny resulting from the breeding of two domesticated animals. The following shall not constitute the operation of a Kennel as defined above and in no way shall this provision regulate the following:

(A) The ownership of domesticated animals as household pets;
(B) The ownership of domesticated animals for hunting or tracking purposes;
(C) The ownership of domesticated animals for the purpose of exhibiting at shows, obedience or field trials; and
(D) The ownership of domesticated animals for the purpose of protection or guarding of residences or commercial establishments. (4/21/75) (23-49)

**Lakes and Ponds** - Natural or artificial bodies of water which retain water year round. Artificial ponds may be created by dams or may result from excavation. (3/22/82) (23-68)

**Landfill** - (see Refuse)

**Lot** - For purposes of this Ordinance, a lot is one or more contiguous properties or portions thereof, not separated by a public right-of-way. Such "lots" shall be of sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such yards and open space as are herein required for the location of a principal building or use and its accessory buildings and uses. (1/4/83) (23-17)

**Lot Depth** - The mean horizontal distance between front and rear lot lines. (23-18)

**Lot Frontage** - The front of a lot shall be construed to be that portion abutting on a street, including the side dimension of a corner lot. For the purpose of determining yard requirements for corner lots in Residential Districts, the minimum width of a side yard along an intersecting street shall be fifty (50) percent greater than the minimum side yard requirements of the district in which the lot is located, or one-half (1/2) of the minimum front yard setback along the side street, whichever is greater. Side yard requirements of corner lots in Business, Office and Institutional, and Industrial Districts shall be the same as the front yard requirements of the district in which the lot is located. Through lots shall be considered to have two (2) front yards. (1/4/93) (23-19)
Lot of Record - A lot which is part of a subdivision recorded in the Office of the Register of Deeds, New Hanover County, or a lot or parcel described by metes and bounds, the description of which has been so recorded. (23-20)

Lot Types

(A) Corner lot - a lot located at the intersection of two (2) or more streets.
(B) Interior lot - a lot other than a corner lot with only one (1) frontage on a street.
(C) Through lot - 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. (23-21)

M

Manufacturing

Artisan Manufacturing - On-site production of goods by hand manufacturing involving the use of hand tools and small-scale light mechanical equipment. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts or very small-scale manufacturing uses that have very limited, if any, negative external impacts on surrounding properties, water resources, air quality and/or public health.

Intensive Manufacturing - Uses listed under the heading “Intensive Manufacturing” in the Table of Permitted Uses shall be considered Intensive Manufacturing uses.

Mining

(a) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of mineral, ores, or other solid matter.
(b) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location.
(c) The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial or construction use.

The definition applies regardless of whether the mining activity is for a commercial or noncommercial purpose, and regardless of size of the affected area. Activities such as vibracoring, box coring, surface grab sampling, and other drilling and sampling for geotechnical testing, mineral resource investigations, or geological research are not considered mining. Excavation of mineral resources associated with the construction or maintenance of an approved navigation project in accordance with 15A NCAC 7B .0200 is not considered mining. Environmental remediation or reclamation projects or the removal of material incidental to excavation and carried out pursuant to an approved site plan (as specified in G.S. 74-49 (7)(d) of the Mining Act of 1971) are exempt from this
definition and shall be allowed in any zoning district provided applicable state and local permits are acquired.

**Mobile Home and Travel Trailer Park** - Any site or tract of land of contiguous ownership, upon which mobile home or travel trailer spaces are provided in accordance with the requirements set forth in the Mobile Home and Travel Trailer Park Ordinance of New Hanover County. (23-22)

**Mobile Home Subdivision** - Any new development consisting of three or more contiguous lots for the purpose of locating mobile homes as defined in Section 23.8 and which is designed and approved pursuant to the New Hanover County Subdivision Ordinance. (6/1/92) (23-99)

**Neighborhood Drugstore** – A retail store whose primary function is to sell or disperse medicines and related medical products. A neighborhood drugstore cannot exceed 4,000 square feet. (3/13/00) (23-104)

**Non-Conforming Uses** - The use of a building or land which does not conform to the use or dimensional regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance. (23-24)

**Overhead Canopy** - Any structure placed over, around, or near a fuel pump island or bank drive-thru and intended to provide lighting and/or protection from the elements for island users shall be considered an overhead canopy. Minimum setback distances shall be determined by measuring a straight line distance from the nearest point of the required reference boundary (i.e., street right-of-way, zoning district line or property line) to the point on the ground surface which is perpendicular to the closest edge of the canopy overhang. (7/3/78) Setback distances from street right-of-way may be reduced by one-half. (7/10/89) (23-55)

**Parking Space, Off-Street** - For the purposes of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. (23-26)

**Performance Residential Development** - A residential development varying from the dimensional requirements of conventional residential development but not exceeding the density limit established in the applicable zone. (3/22/82) (23-65)

**Pier-Head Line** - A line established to limit the extension of piers into public waters in order to preserve the citizens' use of those waters for commercial and recreational purposes. Piers may not be constructed that extend into the channel portion of the water body and shall not extend more than one-third the width of a natural water body or man-made canal or basin. However, piers constructed along the Atlantic Intracoastal Waterway (AIWW) that are intended for public
use or for research or scientific studies affiliated with public or private universities and colleges may extend to the minus 4.0-foot mean low water depth (-04.0’ mlw) provided such extension is no closer than 85 feet from and parallel to the edge closest to the pier of the official navigation channel of said waterway as established by the United States Corps of Engineers. It shall be the responsibility of the owner/petitioner to locate the setback line based upon accurate channel surveys maintained by the Corps. Such piers shall conform with all other criteria established by the N.C. Coastal Resources Commission. (3/8/93) (23-100)

Principal Building - A building in which is conducted the principal use of the lot on which it is located. (9/12/83) (23-23)

Produce Stand - A single-vendor enterprise established to sell a variety of farm products directly to the public in a single location for one or several off site growers.

Professional Historian - shall have a graduate degree in history or closely related field plus one of the following:

(A) At least two years of full-time experience in research writing, teaching, interpretation or other demonstrable professional activity with an academic institution, historic organization or agency, museum or other professional institution; or

(B) Substantial contribution through research and publication to the body of scholarly knowledge in the field of history. (23-78)

Professional Archaeologist - shall have a graduate degree in archaeology, anthropology, or closely related field plus:

(A) At least one year of full-time professional experience or equivalent specialized training in archaeological research, administration and management.

(B) At least four months of supervised field and analytic experience in general North American Archeology; and

(C) Demonstrated ability to carry research to completion. (23-79)

Recreational Vehicle and Boat Trailer Storage Lots – A ground level parking area on which recreational vehicles and boat trailers, with or without boats, can be stored for a fee when not in use. (2-03-14)

Recycling

Processing Facility - An enclosed facility or building that uses power-driven machinery to prepare recyclable materials for shipment. Machinery used in the processing of the materials includes shredders, balers, brickers and can compactors. (1-03-89) (23-89)
**Collection Facility** - Collection facilities are those centers and apparatus used as drop points for temporary storage of recyclable materials, such as metal, glass, plastics and/or newspapers. There are two types:

**Small Facility** - A facility typically not over 500 square feet in size which may be a mobile unit or separate containers, such as igloos, or kiosks located on host lots.

**Large Facility** - A facility that buys or accepts recyclable materials for the purpose of storage until enough has accumulated for shipment. The facility is usually larger than 500 square feet and occupies a single site. (23-88)

**Refuse**

**Sanitary Landfill** - Shall mean a facility for the disposal of solid waste on land in a sanitary manner according to all applicable North Carolina Solid Waste Management Rules. (3/2/87) (23-84)

**Demolition-Landscape Landfill** - Shall mean a sanitary landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes as approved by the N.C. Department of Human Resources, Solid and Hazardous Waste Branch. (3/2/87) (23-85)

**Septage** - Shall mean a waste that is a fluid mixture of partially treated sewage solids, liquids and sludge of human or domestic waste origin, pumped from septic tanks, residential grease traps, or privies. Septage shall be considered that waste which has not been treated by a process to significantly reduce pathogens. (7/6/82) (23-71)

**Sludge** - Shall mean any solid, semi-solid, or liquid waste generated from a residential, commercial, municipal, or industrial wastewater treatment plant or water supply treatment plant not considered to be hazardous by the U.S. Environmental Protection Agency (EPA) or the N.C. Department of Human Resources, Solid and Hazardous Waste Branch. Sludge shall be considered that waste which has been treated by a process to significantly reduce pathogens. (7/6/82) (23-70)

**Solid Waste** - Shall mean any garbage, refuse, septage, sludge or any other waste material which is not considered hazardous by the U.S. Environmental Protection Agency (EPA) or the North Carolina State Department of Human Resources, Solid and Hazardous Waste Branch. (7/6/82) (23-69)

**Residential Care Facility** - A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons. (2/2/87) (23-83)

**Roads** - Any road, highway, way, alley, lane, court, drive, or easement, whether public or private, used as a means of access which meets the minimum requirements for subdivision roads as specified by NCDOT and New Hanover County and which has been duly platted and recorded as per the requirements set forth by New Hanover County. (8/3/87) (23-86)
Site Specific Development Plan - A land development plan approved by the County Commissioners following notice and public hearing which describes with reasonable certainty the type and intensity of land use for a specific parcel or parcels. Site specific development plans include special use permits, conditional use permits, conditional zoning districts, exceptional design zoning districts and shopping center districts. (10/7/91) (23-94)

Senior Living (11/10/08)

**Active Adult Retirement Community or Independent Living Facility**
A housing development that may contain a variety of housing types designed for and restricted to occupancy by households having at least one member who is 55 years of age or older, living independently. Facilities and services would typically include features such as: security; lawn and building maintenance; wellness, fitness, or spa services and facilities; central meeting areas; programmed recreation or social facilities and activities; communal garden spots; AARP Universal Design or other similar characteristics. Minimal supportive services may also be offered to residents in senior apartment facilities.

**Continuing Care Retirement or Life Care Community**
A residential community that accommodates changing lifestyle preferences and health care needs and offers several levels of assistance, including all of the following: independent living, assisted living and nursing home care. It provides a written agreement or long-term contract between the resident and the provider community which offers assurance of a continuum of housing, services and health care, most commonly all on one campus, and frequently lasting for the resident’s lifetime.

**Assisted Living or Personal Care Facility**
A managed facility providing personalized supportive services (personal care) to seniors who need help with the activities of daily living. These facilities make available at a minimum, one daily meal and housekeeping services, and also provides personal care directly or through a formal written agreement with a licensed care agency or hospice. Personal care services are services typically provided to individuals with infirmities or limitations and commonly includes assistance with eating, bathing, dressing or walking as well as medication management, personal laundry service and other individualized services. Personal care would not normally include general transportation, social or recreational offerings nor exercise, salon or spa services, although any of these services could be offered in addition to personal care.

**Nursing Home or Rehabilitation Center**
A licensed facility for chronic or convalescent patients who have remedial ailments or other ailments for which continuing medical and nursing care are indicated but who do not require general hospital care.
**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, overhauling, and tire changes, excluding body work and painting. (23-27)

**Setback Line** - The line on the front, rear, and sides of a lot, which delineates the area upon which a structure may be built and maintained. (23-28)

**Shopping Center** - Two (2) or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves. (23-30)

**Signs, Banners, Flags**

- **Sign** - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. (23-31)

- **Sign, Principal** - A sign which directs attention to a business, commodity, service, entertainment, or other activity, conducted, sold, or offered exclusively on the premises upon which said sign is located. (23-32)

- **Sign, Outdoor Advertising** - Any sign either free standing or attached to a structure which directs attention to a business, commodity, service, entertainment, or other activity, conducted, sold, or offered elsewhere than on the premises on which said sign is located. (23-33)

- **Signs, Surface Area of** - The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. (23-34)

- **Sign, Temporary** - Sign permitted for a period not exceeding twelve (12) months including for sale, for rent, construction company's name, subcontractor's names, architect's, and planner's names. (23-35)

- **Sign, Window** - A window sign is a sign attached directly onto the inside or outside of the window of a building, or placed inside the window so that it is visible from the outside. (23-108)

- **Sign, Wall** - A wall sign is a sign which is attached flat to a wall or facade facing of a building and which projects not more than eighteen (18) inches from the wall. (23-110)

- **Sign, Time and/or Temperature** - A sign containing numerals which may be alternately displayed to show the time and/or temperature. A time and/or temperature sign shall not be considered a flashing or animated sign; time and temperature signs shall not change or alternate messages more frequently than once every three (3) seconds. (23-111)
**Sign, Special Purpose** - A temporary sign to announce sales, new products, openings or closeouts and other special events. (23-112)

**Sign, Roof sign, integral** - Any sign erected or constructed as an integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches. Chimneys or other similar features are not an integral part of a normal roof structure. An integral roof sign shall be considered to be a wall sign and shall be subject to the regulations pertaining to wall signage. (23-113)

**Sign, Animated** - Any sign which uses movement or change of lighting to depict action or to create a special effect or scene (compare "flashing sign"). (23-114)

**Sign, Floating** - Any sign painted on or attached to any boat or structure which floats or is designed to float, whether such boat or structure is self-propelled or not. (12/7/87) (23-87)

**Sign, Banner** - A suspended sign made of a flexible material such as canvas, sailcloth, plastic or waterproof paper. (23-115)

**Sign, Directional (on premises)** - A sign or guide to direct pedestrian or vehicular traffic on the premises on which it is displayed. Examples include "in," "out," "entrance," and "exit." (23-116)

**Sign, Flashing** - An illuminated sign of direct or indirect lighting on which the artificial light flashes on and off in regular or irregular sequences. (23-118)

**Sign, Height** - As applied to a sign, height shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and a level plane going through the nearest point of the improved public right-of-way at the ground-level curb line. (23-119)

**Sign, Incidental** - A single face or double face non-illuminated professional or announcement sign attached wholly to a building, window or door containing information relative to emergencies, store hours, credit cards honored and other similar accessory information. (23-120)

**Sign, Integral** - Names of buildings, dates of erection, monumental citations, tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the building. (23-121)

**Sign, Multi-unit** - A freestanding sign which contains three (3) or more identification signs for multi-occupancy premises, such as a shopping center. (23-122)

**Sign, Pennant** - A tapered or dovetailed banner or flag. (23-123)
**Sign, Portable or Movable** - A sign that is not permanently attached to the ground, a structure, or a building and that can easily be moved from one location to another and used for a temporary purpose. (23-124)

**Sign, Projecting** - A sign end-mounted or otherwise attached to an exterior wall of a building or structure, and which projects out from the wall. (23-125)

**Sign, Revolving** - A sign which revolves three hundred and sixty (360) degrees. (23-126)

**Flags** - Refers to devices generally made of flexible materials such as cloth, paper or plastic, and displayed on a flagpole. (23-117)

**Site Specific Development Plan** - A land development plan approved by the County Commissioners following notice and public hearing which describes with reasonable certainty the type and intensity of land use for a specific parcel or parcels. Site specific development plans include special use permits, conditional use permits and shopping center districts. (10/7/91) (23-94)

**Special Highways** - Any highway, such as but not limited to interstate corridors, freeways, arterials and collectors, designated by the Board of County Commissioners for its scenic qualities and its ability to provide safe and efficient traffic flow. (2/3/86) (23-80)

**Special Use** - A use that would not be appropriate generally as a right without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to neighborhood, would promote the public health, safety, morals, or the general welfare. (23-36)

**Specified Sexual Activities** - 1) Human genitals in a state of sexual stimulation or arousal; 2) Acts of human masturbation, sexual intercourse or sodomy; 3) fondling or other erotic touching of human genitals, pubic region, buttock or female breast. (23-91)

**Specified Anatomical Areas** - 1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and 2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (9/7/89) (23-92)

**Street** - A dedicated and accepted public or private right-of-way for vehicular traffic which affords the principal means of access to abutting properties. (7/6/92) (23-37)

**Street Line** - The right-of-way boundary of a street. (23-38)

**Structure and/or Building** - Anything constructed or erected within a fixed location on the ground, or attached to something having a fixed location on the ground. The terms building and/or structure shall be construed to include porches, decks, carports, garages, sheds, roof extensions, overhangs extending more than 2', and any other projections directly attached to the structure and/or building. (12/17/2012)
Sunshine List – A list of email addresses on file with the Clerk to the Planning Board of persons or organizations with a standing written request or subscription to receive public meeting notices.

Travel Trailer - A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes. Including but not limited to structures mounted on auto or truck bodies that are commonly referred to as campers. (8/3/81) (23-40)

Trees

Understory Tree - Any tree 40' foot at maturity capable of thriving in the lower light intensities found under the canopy of shade/canopy trees. (7/01) (23-106)

Significant Tree – Any hardwood tree or coniferous tree with a diameter at breast height (DBH) equal to or greater than 24 inches or any dogwood, American holly, or other flowering tree with a DBH equal to or greater than 8” (7/01, 10/6/08)

Specimen Tree – Any Live Oak tree that is 36” diameter at breast height (DBH) or larger. (11/04/19)

Regulated Trees – Those trees of the size, species and location to be protected under the development provisions of the Landscaping section of the ordinance 62.1-3(1) (A) and (B). (10/6/08)

Forest Management Plan – A document that defines a landowner’s forest management objectives and describes specific measures to be taken to achieve those objectives. The plan shall be prepared by a licensed forester and shall include silviculture practices that both ensure optimal forest productivity and environmental protection of land. (NC Division of Forest Resources and NC Cooperative Extension Service can provide educational materials and lists of licensed foresters.) (10/6/08)

Timber Harvest – The felling, loading, and transportation of forest products, round wood or logs (Source: NC Division of Forest Resources) (10/6/08)

Use Value - The North Carolina General Assembly enacted the "Land Use Program," which allows reduced tax values for individually owned property used for certain purposes, including forestry. Basic eligibility requirements are forestland consisting of one or more tracts, one of which consists of at least 20 acres that is in actual production and are not included in a farm unit. A forestry management plan is required. (Contact NHC Tax Administration for more information.) (10/6/08)

Variance - A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and
not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. (23-41)

**Vested Rights (Zoning)** - The right pursuant to G. S. 153A-344.1 to undertake and complete the development property under the terms and conditions of an approved site specific development plan. The duration of vesting shall not exceed two years unless expressly provided for by the County. (10/7/91) (23-95)

**W**

**Water-oriented Parking** - A designated docking space provided by a commercial establishment for the express use of its customers. Water-oriented parking shall only be allowed in conjunction with commercial establishments that are located on navigable waters. (4/6/92) (23-98)

**Water Supply Watershed** - The entire land area that contributes to surface drainage and other run-off into a surface water supply. (11/1/93) (23-102)

**Wind device** - Any flag, banner, balloon, pennant, streamer or similar device that moves freely in the wind. All wind devices are considered to be signs and are regulated and classified as attached or detached by the same regulations as other signs. (23-109)

**Y**

**Yard** - A required open space unoccupied and unobstructed by a structure or portion of a structure provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. (1/5/81) Private driveways or easements serving three or fewer lots pursuant to Section 65 may also be permitted in any yard. (3/8/93) HVAC units elevated to comply with flood plain regulations may be permitted in any side yard provided the supporting structure is at least (5) feet from the adjoining property line. (8/18/03) (23-42)

**Yard, Front** - A yard extending between side lot lines across the front of a lot adjoining a public or private street. The depth of the required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines, and in such a manner that the yard established shall provide minimum depth parallel to the front lot line. (7/6/92) (23-43)

**Yard, Side** - A yard extending from the rear lines of the required front yard to the rear lot line. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the side lot line. (23-44)
Yard, Rear - A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there shall be no rear yards, but only front and side yards. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line. (23-45)

23-10:  DELETED (3/22/82)
23-14:  DELETED (1/5/81)
23-25:  DELETED (1/5/81)
23-29:  DELETED (1/5/81)
23-47:  DELETED (1/5/81)
23-48:  DELETED (1/5/81)
23-50:  DELETED (1/5/81)
23-51:  DELETED (1/5/81)
23-52:  DELETED (1/5/81)
23-56:  DELETED (1/5/81)
23-57:  DELETED (3/22/82)
23-58:  DELETED (1/5/81)
23-59:  DELETED (1/5/81)
23-60:  DELETED (1/5/81)
23-75:  DELETED (2/16/87)
ARTICLE III: ESTABLISHMENT OF DISTRICTS

Section 30: Provision for Official Zoning Map

30-1: **Official Zoning Map**

The planning jurisdiction of the unincorporated County of New Hanover is hereby divided into zones, or districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The official zoning map, as approved in accordance with the procedures set forth in Article XI of this ordinance, shall be identified by the signature of the Chairman of the County Commissioners attested by the Clerk to the Board of County Commissioners, and bearing the seal of the County. The most current official map shall be located in the Planning and Land Use Department, and an exact copy shall be available in the office of the County Commissioners (5/4/09). The official zoning map shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County.

30-2: **Maintenance and Replacement of Official Zoning Map**

The official zoning map shall be maintained and periodically updated by the Planning and Land Use Department when approved in accordance with procedures set forth in Article XI of this ordinance. Updates will be produced in conjunction with amendments to the zoning districts or to correct documented errors or omissions. All available records pertaining to its adoption or amendment shall be preserved in the county’s archives. The Planning and Land Use Director shall assure protection and preservation of the records necessary to replace the official zoning map in the event of disasters (5/4/09).

Section 31: Rules for Interpretation of District Boundaries

31-1: Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets or highways, shall be construed to follow such center lines;
2. Boundaries indicated as approximately following the right-of-way of streets or highways, shall be construed to follow such rights-of-way.
3. Boundaries indicated as approximately following the platted lot lines shall be construed as following such lot lines;
4. Boundaries indicated as approximately following County boundary shall be construed as following such County boundary.
5. Boundaries indicated as approximately following town limits shall be construed as following such town limits;
6. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
(7) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

(8) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by sub-sections one (1) through seven (7) above, the Board of Adjustment shall interpret the district boundaries consistent with the intent of the district or standards in question and adopted plans or policies of the county. (5/4/09)

Section 32: Application of District Regulations

32-1: The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

(1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(2) No building or other structure shall hereafter be erected or altered:

(3) to exceed height or bulk;

(4) to accommodate or house a greater number of families;

(5) to occupy a greater percentage of lot area;

(6) to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner be contrary to the provisions of this ordinance.

(7) No part of a yard, or other open space required about or in connection with any building for purpose of complying with this ordinance, shall be included as part of a yard, or open space similarly required for any other building.

(8) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
ARTICLE IV: NON-CONFORMING SITUATIONS

Section 40: General

40-1: After the effective date of this ordinance, land or structures, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located and which were existing prior to the effective date of this ordinance shall be considered as non-conforming. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their continual use. Non-conforming structures or uses may be continued provided they conform to the provisions of this ordinance. (9/7/76)

Section 41: Definitions

41-1: Unless the context clearly indicates otherwise, the terms defined below are used in this Article in the following manner:

(1) Non-Conforming Situation - A situation that occurs when, on the effective date of this ordinance or any amendment hereto, an existing lot or structure, or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located.

(2) Non-Conforming Lot - A lot existing at the effective date of this ordinance or any amendment hereto that cannot meet the minimum lot area requirements of the district in which the lot is located.

(3) Non-Conforming Use - A non-conforming situation occurs when property is used for a purpose or in a manner made unlawful by the permitted use regulations applicable to the district in which the property is located.

(4) Non-Conforming Building or Structure (Dimensional Non-Conformity) - A non-conforming situation that occurs when the height, size or minimum floor space of a building or the relationship between an existing building and the required yard setbacks does not conform to the regulations applicable to the district in which the property is located.

(5) Non-Conforming Project - Any structure, development or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned. (9/7/76)

Section 42: Use of Undeveloped Non-Conforming Lots

42-1: Non-Conforming Single Lot of Record - A vacant lot of record established prior to the effective date of this ordinance which does not conform to the minimum lot requirement of the district in which it is located may be used as a building site for a use permitted within that district provided:
(1) All construction and the location of the building(s) shall be in accordance with the applicable front, side and rear yard requirements of the current zoning district in which located.

(2) The existing or proposed water and sewage disposal system is approved by the New Hanover County Environmental Health Department or the Cape Fear Public Utility Authority, whichever applies. (5/4/09)

42-2: **Non-Conforming Vacant Contiguous Lots of Record** – This section applies when two or more adjoining lots of record (one of which is vacant) containing less than 100 feet in total width and less than 20,000 square feet in total area held in identical ownership at any time after the adoption of this ordinance, such lots shall be deemed to be combined into a lot or lots which meet the minimum requirements of this ordinance for the zoning district in which such lots are located. (5/4/09)

**Section 43: Completion of Non-Conforming Projects**

43-1: The construction or erection of any non-conforming project may be completed provided:

(1) All construction is done pursuant to a validly issued building permit. (9/7/76)

**Section 44: Extension or Enlargement of Non-Conforming Situations**

44-1: Except as specifically provided in this section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of non-conformity of a non-conforming situation.

44-1.1: The standards outlined in Sections 53.2 and 53.3 of this ordinance and any requirement for a special use permit shall apply to all new proposals in I-1 and I-2 districts as shown on the Table of Permitted Uses. Any existing industrial uses which did not require a special use permit as of the day prior to the date of adoption of this section would be considered a conforming use and shall not require a special use permit in order to continue operations. The term “existing industrial uses” shall mean industries in active operation and open for business on a tax parcel zoned I-1 or I-2 and developed for that particular use as of the day prior to the date of adoption of this section.

44-1.1.1: **Modifications and/or Expansions of Existing Industrial Uses:** For modifications and/or expansions of existing industrial uses whose site conditions were in conformity with the requirements of this ordinance as of the day prior to the date of adoption, the following conditions must be met. If these conditions are not met, or if the existing industrial use is classified within the Intensive Manufacturing category, and the modification and/or expansion change the particular use within that category, a special use permit will be required for the modification and/or expansion.

**A. Modifications and/or Expansions on the Same Parcel:** Modifications and/or expansions of existing industrial uses shall be allowed if fully contained on the tax parcel currently developed for and operating as such use and provided the following:
1. If the expansion and/or modification is for the same existing industrial use that was in active operation and open for business as of the day prior to the date of adoption of this section.

2. If the expansion and/or modification is for a less intensive industrial use than was in active operation and open for business as of the day prior to the date of adoption of this section. (Ex. An existing Intensive Manufacturing use could transition to a use in the Artisan, Limited or General Manufacturing category).

3. If the existing industrial use is classified within the General, Limited or Artisan Manufacturing categories, the use may expand and/or modify to a different use within that same category.

B. Modifications and/or Expansions onto Adjacent or Contiguous Parcels: Modifications and/or expansions of existing industrial uses shall be allowed on tax parcels adjacent or contiguous (excluding rights of way) to the current use, if properly zoned, and held in the same ownership as on the date of adoption of this section (including successor ownership) and provided the following:

1. If the expansion and/or modification is for the same existing industrial use that was in active operation and open for business as of the day prior to the date of adoption of this section.

2. If the expansion and/or modification is for a less intensive industrial use than was in active operation and open for business as of the day prior to the date of adoption of this section. (Ex. An existing Intensive Manufacturing use could transition to a use in the Artisan, Limited or General Manufacturing category).

3. If the existing industrial use is classified within the General, Limited or Artisan Manufacturing categories, the use may expand and/or modify to a different use within that same category.

44-2: Subject to paragraph 44-4 of this section, a non-conforming use may be extended throughout any portion of a completed building that, when the use was made non-conforming by this ordinance, was manifestly designed or arranged to accommodate such uses. However, subject to section 43 of this ordinance, a non-conforming use may not be extended to additional buildings or to land outside the original building.

44-3: Subject to section 43 of this ordinance, a non-conforming use of open land may not be extended to cover more land than was occupied by that use when it became non-conforming, except that a use that involves the removal of natural materials from the lot (e. g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became non-conforming, if ten (10) percent or more of the earth products had already been removed at the active date of this ordinance.
44-4: Where a non-conforming situation exists the equipment or processes may be changed if these or similar changes amount only to changes in degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

44-5: Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:

(1) An increase in the total amount of space devoted to a non-conforming use; or
(2) Greater non-conformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements.

44-6: Minor repairs to and routine maintenance of property where non-conforming situations exist are permitted and encouraged.

44-7: Notwithstanding paragraph 44-5, any structure used for single family residential purposes and maintained as a non-conforming use or structure may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to yard size and setback requirements. In particular, a mobile home may be replaced with a larger mobile home, and a "single-wide" mobile home may be replaced with a "double-wide". This paragraph is subject to the limitations stated in Section 46 - Abandonment and Discontinuance of Non-Conforming Situations.

44-8: A structure that is non-conforming in any respect or a structure that is used in a non-conforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:

(1) A letter of intent is received by the Director of Planning and Land Use within six (6) months from the time of such destruction.
(2) A building permit is obtained from the Building Safety Department within one (1) year from the time the damage or destruction took place.
(3) The total amount of space devoted to a non-conforming use may not be increased, except that a larger, single family residential structure may be constructed in place of a smaller one and a larger mobile home intended for residential use may replace a smaller one.
(4) The reconstructed building may not be more non-conforming with respect to dimensional restrictions such as yard requirements, height limitations or density requirements, and such dimensional non-conformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the non-conforming use of such building.

9/7/76

Section 45: Change in Kind of Non-Conforming Use

45-1: A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.
45-2: A non-conforming use may be changed to another non-conforming use only in accordance with approval issued by the Board of Adjustment. The Board shall issue such approval if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the approval is applied for. If a non-conforming use is changed to any use other than a conforming use without obtaining approval pursuant to this paragraph, that change shall constitute a discontinuance of the non-conforming use, and the property involved may thereafter be used only for conforming purposes. (8/2/82)(8/8/94)

45-2.1: A non-conforming accessory use or building may only be changed to another non-conforming accessory use or building according to Section 45-2 of this Ordinance. Changes in a principal use are also considered as changes to any accessory use or building. (9/12/83)

45-3: If a non-conforming use and a conforming use, or any combination of a conforming and non-conforming uses, or any combination of non-conforming uses exist in one (1) lot, the use made of the property may be changed substantially (except to a conforming use), only in accordance with approval issued by the Board of Adjustment. The Board shall issue such approval if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the approval is applied for. (9/7/76)

45-4: A use listed as permitted use in the Tabulation of Permitted Uses may be established as a new use in any existing non-conforming building provided such use complies with all off-street parking requirements of this Ordinance. (3/2/81)

Section 46: Abandonment and Discontinuance of Non-Conforming Situations

46-1: When a non-conforming use is discontinued for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming purposes. (8/17/81)

46-2: For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a non-conforming apartment building or one (1) space in a non-conforming mobile home park for one hundred eighty (180) days shall not result in the loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, discontinuance of a non-conforming use for the required period shall terminate the right to maintain it thereafter. And so, if a mobile home is used as a non-conforming use on residential lot where a conforming residential structure also is located, removal of that mobile home for one hundred eighty (180) days terminates the right to replace it. (11/21/81)
46-3: When a structure or operation made non-conforming by this ordinance is vacant or discontinued at the effective date of this ordinance, the one hundred eighty (180) day period for purposes of this Section, begins to run at the effective date of this ordinance. (11/21/81)
ARTICLE V: DISTRICT REGULATIONS

Section 50: Establishment of Use District

50.1: **Use District**
For the purposes of this ordinance, portions of the unincorporated area of New Hanover County
are hereby divided into the following districts:

**Residential Districts**
- AR Airport Residential District (10/4/76)
- R-20S Residential District (12/7/81)
- R-15 Residential District
- R-7 Residential District (12/17/12)

- RA Rural Agricultural District (07/01/85)
- R-20 Residential District
- R-10 Residential District

**Commercial Districts**
- B-1 Business District
- O&I Office and Institutional District

- B-2 Highway Business District
- SC Shopping Center District

**Industrial Districts**
- AI Airport Industrial District (10/4/76)
- I-2 Heavy Industrial District

- I-1 Light Industrial District

**Mixed Use Districts**
- EDZD Exceptional Design Zoning District (11/2/09)
- RFMU Riverfront Mixed Use District (3/12/07)

- PD Planned Development District (8/20/84)

**Overlay Districts**
- COD Conservation Overlay District (12/1/84)
- SHOD Special Highway Overlay District (12/3/86)
50.2: **Tabulation of Permitted Uses**

Within the various zoning districts as indicated on the official zoning map, New Hanover County, North Carolina, and subject to all requirements and conditions specified in this ordinance; land, buildings, and structures may only be used and buildings and structures may only be erected which are intended or designed to be used for uses listed in the table of permitted uses. In the appropriate columns of the following table, permitted uses in the various districts are indicated by a "P" while uses permitted only as a special use subject to the provisions of Section 72 are indicated by an "S". (1/5/81)

50.3: **Conditional Use Districts and Conditional Zoning District Classifications (1/2/90)(05/02/2012)**

All existing zoning districts, except PD, Planned Development, EDZD Exceptional Design Zoning District, and SC, Shopping Center, shall also be designated CUD, Conditional Use Districts, or CZD, Conditional Zoning District as established by the County Commissioners. Each new conditional district or conditional use district is considered a separate zone and is not mapped until a conditional district or conditional use district rezoning and special use permit has been issued. All conditional use districts and conditional districts shall be indicated by CUD or CZD respectively followed by the general zoning district classification, as follows:

**Conditional Use Districts:**

- CUD(R-20S) CUD (RA) CUD (I-1)
- CUD(R-20) CUD (B-1) CUD (I-2)
- CUD(R-15) CUD (B-2) CUD (AR)
- CUD(R-10) CUD (O&I) CUD (A-I)

**Conditional Zoning Districts (5/21/12):**

- CZD(R-20S) CZD (RA) CZD (I-1)
- CZD(R-20) CZD (B-1) CZD (I-2)
- CZD(R-15) CZD (B-2) CZD (AR)
- CZD(R-10) CZD (O&I) CZD (A-I)

50.4  **Special Density Exception for Pre-existing Utility Parcels (5/3/10)**

50.4-1  Where allowed. This section applies in all residential districts

50.4-2  Applicability. For parcels within older subdivisions where water, septic or other utilities were provided privately in the original development, and where public services are now available to free those utility parcels from their original purposes, a special exception may allow for the development of those parcels formerly dedicated to a community service other than recreation. All of the following conditions and limitations must be in evidence in order to be granted a special exception under this section:

1. When a major residential subdivision was approved and the final plat was recorded prior to 7/7/02, AND
2. When one or more parcels on the recorded final plat was designated for private well site(s), communal septic drain field(s) or other utility parcel necessary to serve the original subdivision and the acreage of the parcel was included in calculating the allowable density for the subdivision, AND
3. When the parcel(s) meets the minimum requirements of this ordinance, AND
4. When the accommodation of those services or utilities has been otherwise met by public providers since the subdivision was developed,

THEN the former utility parcel(s) may be converted to building lot(s) within the subdivision, if and only if:

   a) The density approved for the original subdivision may not be increased by special exception more than a total of 3 additional dwelling units in any eligible subdivision.

   b) Utility parcels shown on the final subdivision plat during the period of eligibility may not be further divided for the purpose of adding dwelling units.

   c) Public water and sewer services must be readily available to serve the entire subdivision.

   d) Each lot must front on a dedicated street right of way

   e) No part of any parcel considered for special exception shall have been designated open space or recreational space for the approved subdivision which they served.

   f) Development of any lot subject to this exception must be of a character consistent with the scale and design of pre-existing development in the neighborhood.

   g) All lots are subject to conservation resources regulations and may be ineligible for this special exception based upon inability to meet those standards.

50.4-3 Where special exceptions are not allowed.
Special Exceptions as described above shall not be allowed in the following situations:
1. Any subdivision for which the courts have established a specified density.
2. Parcels located in a special flood hazard area are ineligible for special exception.
3. If development of such new lot(s) is inconsistent with the land use plan

50.4-4 Approval of Special Exceptions
The Director of Planning & Land Use or his designee shall review each case in which a special exception is sought. The special exception shall be granted when all of the criteria listed above can plainly be met. Application for special exception shall be in the form of a letter to the director with narrative history of the subdivision and a copy of the eligible final plat as noted above and any other pertinent supporting information such as septic permit for communal drain field, etc. A letter approving or denying the special exception shall be returned to the applicant within 30 days of submission and shall be included in the subdivision applicable file.
| Permitted Uses                                                                 | PD | R 20S | R 20 | R 15 | R 10 | R 7 | R 5 | R M F-L | R M F-M | R M F-H | B 1 | B 2 | C 1 | I 1 | I 2 | O & I | A 1 | A 2 | A 3 | S 1 | S 2 | S 3 | R 1 | R M | R F | U M | X Z | Supp Regs | NAICS |
|-------------------------------------------------------------------------------|----|-------|------|------|------|-----|-----|--------|--------|--------|-----|-----|-----|-----|-----|-------|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|---------|-------|
| **Agriculture, Forestry, Fishing**                                           |    |       |      |      |      |     |     |        |        |        |     |     |     |     |     |      |      |     |     |     |     |     |        |      |      |     |     |     |        |       |
| Kennels                                                                      | P  | S     | S     | S     |       |     |     |        |        |        |     |     |     |     |     |     | P     | S   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| Veterinaries                                                                 | P  |       |       |       |       |     |     |        |        |        |     |     |     |     |     |     | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| **Construction**                                                             |    |       |      |      |      |     |     |        |        |        |     |     |     |     |     |     |        |     |     |     |     |     |        |      |      |     |     |     |        |       |
| General Building Contractor                                                 | P  |       |       |       |       |     |     |        |        |        |     |     |     |     |     |     | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| General Contractors Other Than Building                                      | P  |       |       |       |       |     |     |        | P      | P      | P     | P   | P   | P   | P   | P   | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| Landscaping Contractors (12/13/82)                                           | P  |       |       |       |       |     |     |        |        |        |     |     |     |     |     |     | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| Special Trade & General Contractors with no Outside Storage (12/5/88)       | P  |       |       |       |       |     |     |        |        |        |     |     |     |     |     |     | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| **Transportation, Communication, Utilities**                                |    |       |      |      |      |     |     |        |        |        |     |     |     |     |     |     |        |     |     |     |     |     |        |      |      |     |     |     |        |       |
| Solar Power Farms                                                           |    |       |      |      |      |     |     |        |        |        |     |     |     |     |     |     |        |     |     |     |     |     |        |      |      |     |     |     |        |       |
| Air Transportation                                                          | P  |       |       |       |       |     |     |        |        |        |     |     |     |     |     |     | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| Commercial Marina with Floating Structures (4/2/84)                         | S  | S     | S     | S     |       |     |     |        | S      | S      | S     | S   | S   | S   | S   | S   | P     | S   | S   | S   | S   | S   | P     |       |      |     |     |     | P   | P     |       |
| Dry Stack Storage of Boats: (1/7/08)                                        |    |       |      |      |      |     |     |        |        |        |     |     |     |     |     |     |        |     |     |     |     |     |        |      |      |     |     |     |        |       |
| As a stand-alone warehouse                                                 | P  |       |       |       |       |     |     |        |        |        |     |     |     |     |     |     | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |
| As accessory to a marina                                                   | P  | S     | S     | S     | S     | S   | S   | S      | S      | S      | S   | S   | S   | S   | S   | P     | S   | S   | S   | S   | S   | P     |       |      |     |     |     | P   | P     |       |
| Commercial Parking Lots                                                    | P  |       |       |       |       |     |     |        |        |        |     |     |     |     |     |     | P     | P   | P   | P   | P   | P   | P     |       |      |     |     |     | P   | P     |       |

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| Permitted Uses                                                                 | PD | R 20S | R 20 | R 15 | R 10 | R 7 | R 5 | R M F-L | R M F-M | R M F-H | B 1 | C B | B C | I 1 | I 2 | O & I | A R | A I | A S | C R | R A | R F M | U M | X | Z | Supp Regs | NAICS |
|-----------------------------------------------------------------------------|----|-------|------|------|------|-----|-----|--------|--------|--------|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|------|-----|---|---|-----|------|------|
| Junk Yards, Scrap Processing (See Section 63.3-2)                           |    |       |      |      |      |     |     |        |        | P      |     |     |     |     |     |     |     |     |     |     |     |     |     | 63.3-2 | 423130 |
| Mini-Warehouses                                                             | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     | 63.10  |       |
| Motor Freight Transportation Warehousing                                    | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     |       |       |
| Post Offices                                                                | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     |       |       |
| Railroad Transportation                                                     | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     |       |       |
| Recreational Vehicle and Boat Trailer Storage Lots (2/3/14)                 | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     |       |       |
| Telephone & Telegraph Facilities                                           | P  | P     | P    | P    | P    | P   | P   | P      | P      | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     | 63.20  |       |
| TV & Radio Broadcasting                                                     | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     |       |       |
| Warehousing                                                                 | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     |       |       |
| Water Transportation Facilities                                             | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     |       |       |
| Antenna & Towers Less Than 70 Ft. In Height & Ancillary to the Principal Use (2/5/96) | P  | P     | P    | P    | P    | P   | P   | P      | P      | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     | 63.5-1 |       |
| Cellular & PCS Antennas (See Section 63.5-1 (H))                           | P  | P     | P    | P    | P    | P   | P   | P      | P      | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     | 63.5-1 |       |
| Amateur Radio Antennas (up to 90 ft.) (10/07)                               | P  | P     | P    | P    | P    | P   | P   | P      | P      | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     | 63.5-1 |       |
| **Wholesale Trade**                                                         |    |       |      |      |      |     |     |        |        | P      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |       |
| Livestock Sales                                                             |    |       |      |      |      |     |     |        |        | P      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |       |
| Wholesaling                                                                 | P  |       |      |      |      |     |     |        |        | P      | P   | P   | P   | P   | P   | P    | P   |     |     |     |     |     |     |     |     |     |     | 63.20  |       |
| Permitted Uses                                                                 | PD | R | R | R | R | R | R | R | R | R | R | R | R | R | R | R | B | B | C | C | C | C | I | I | O | O | A | A | A | A | S | S | F | F | M | M | U | U | X | X | Z | Z | Supp | NAICS |
| Wholesaling With No Outside Storage (11/2/81)                               | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Wholesaling Seafood With Water Frontage                                     | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| **Retail Trade**                                                             |    |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Apparel & Accessory Store                                                    | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Automobile Service Station                                                   | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Automobile Dealers & Truck Sales                                             | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Boat Dealers                                                                 | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Building Material & Garden Supplies                                          | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Convenience Food Store (7/5/85)                                              | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Drug Store                                                                   | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Neighborhood Drug Store                                                      | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Eating and Drinking Places                                                   | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Entertainment Establishments, Bars, Cabarets, Discos                         | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Entertainment Establishments, Bars, Cabarets, in a Shopping Center           | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Farm Implement Sales                                                        | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Food Stores                                                                  | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Fruit & Vegetable Stand Produced on Same Parcel as Offered for Sale          | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Furniture, Home Furnishing & Equipment                                      | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| General Merchandise Stores                                                   | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| Handcrafting Small Articles                                                  | P  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |

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| Adult Day Care                                    | P  | S     | S    | S    | S    | S   | S   | S      | S      | S      | P   | P  | P  | P  | P   | P   | P        | P   | S   | P   | P  | P     | P     | S | 63.14    |       |
| Child Care Center (10/7/13)                       | P  | S     | S    | S    | S    | S   | S   | S      | S      | S      | P   | P  | P  | P  | P   | P   | P        | P   | S   | P   | P  | P     | P     | S | 63.11    |       |
| Community Center                                 | P  | S     | S    | S    | S    | S   | S   | S      | S      | S      | P   | P  | P  | P  | P   | P   | P        | P   | S   | P   | P  | P     | P     | S | 63.4     |       |
| Laboratories, Testing                            | P  |       |      |      |      |     |     |        |        |        |     |    |    |    |     |     |          |     |     |     |    |       |       |   |          | 63.11  |

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<td>72-42</td>
<td>21</td>
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<tr>
<td>Mining &amp; Quarrying (High Intensity)</td>
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<td>72-42</td>
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</tr>
</tbody>
</table>
Section 51: Residential Districts

Section 51.1: Regulations Applicable to the Following Residential Districts

51.1-1: Conventional Residential: Conventional residential lots shall meet the dimensional requirements, parking, and sign regulations specified in the applicable zone. (1/4/82)

51.1-2: Performance Residential: In addition to the density limit established in the applicable zone, all Performance Residential Development shall comply with the following regulations:

1. Buildings on the periphery of a Performance Residential Development shall setback no less than twenty (20) feet from the adjoining property line. (6/16/86)
2. In no case shall any part of a detached single-family dwelling unit be located closer than ten (10) feet to any part of any other detached single-family dwelling; and in no case shall any part of a multiple dwelling unit be located closer than twenty (20) feet to any part of another dwelling unit. (6/1/92)
3. Parking shall be provided in accordance with Article VIII of this Ordinance.
4. A drainage plan pursuant to Section 52-5 of the Subdivision Ordinance shall be submitted to the County Engineer for approval. (5/5/97)
5. Water supply and sewage disposal facilities shall be approved by the County and appropriate local or state agency per section 63.3-1. (8/3/87)
6. All undivided areas within the development (other than street rights-of-way, parking, and structures) shall be designated as open space. Such open space shall be offered to the public or encumbered for the perpetual benefit of the residents in accordance with the requirements of Section 60.2 of this Ordinance. (7/8/02)
7. Private streets will be permitted in Performance Residential Developments; however, dedication of public streets and utility easements may be required if such are indicated on the official plans as adopted by New Hanover County or any municipality therein or if it is determined by the County Planning Board that such public streets or easements are necessary. (4/6/87)
8. When a development proposal is submitted under this Section, it shall be processed as a major subdivision (more than five lots) under the provisions of the New Hanover County Subdivision Regulations as amended. (4/6/87)(10/3/94)

Projects proposing more than 150 dwelling units shall have the option of seeking Preliminary approval in two phases: Phase One - General Development Plan and Phase Two - Preliminary approval

(A) Phase One - General development Plan shall confer upon the applicant the following rights for a period of five years: the total number of dwelling units, and the general type (single-family detached or attached, townhouses, apartments, patio homes, etc.)

(B) In reviewing the General Development Plan, the Planning Board shall indicate the following which shall not vest, but still be presumed to be
valid at Phase Two - Preliminary Approval subject to engineering and environmental considerations:

1. the location of collector roads.
2. the general location and density of the various types of dwellings.

(C) Phase Two - Following approval of the General Development Plan the applicant shall proceed with Phase Two - Preliminary Plan Approval (7/8/02)

(9) A site plan conforming to the requirements of Section 60.1 shall be submitted.

(10) A homeowners association meeting the requirements of Section 60.5 shall be established.

(11) In calculating the density for a proposed development, the following areas shall first be subtracted from the gross area of land to be committed to development. In lieu of subtracting Dorovan, Johnston, and Pamlico soils, the developer may choose to preserve 100% of such areas as conservation space. Such designation shall follow the requirements of Section 55.1-4(4) Methods of Conservation Space Preservation with all improvements limited to Section 55.1-4(3) Improvements.

(A) all natural lakes, ponds, rivers, or marshes; and,

(B) all areas of Class IV soils as defined in A Classification of Soils in New Hanover County for Septic Tank Suitability. All calculations shall be rounded to the nearest whole unit. (1/4/84)(9/6/94)

(C) Residential units shall not be clustered at a density greater than 2.5 units per net tract acre in areas classified Rural Residential place type, Conservation place type, AE or VE special flood hazard areas, or CAMA Estuarine Areas of Environmental Concern, except under the following circumstances. If a development encompasses Rural Residential place type, Conservation place type, AE or VE special flood hazard areas, or CAMA Estuarine Areas of Environmental Concern, then density may exceed 2.5 units per acre in the areas of the site outside of the AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern, provided the number of units in the AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern is reduced by an equal amount. At no time shall any portion of the project designated as AE or VE special flood hazard areas, CAMA Estuarine Areas of Environmental Concern, Rural Residential place type, or Conservation place type exceed the 2.5 units/acre limitation, nor shall the overall density of the project exceed the limits specified in the respective residential zoning districts.

(D) Residential units shall not be clustered at a density greater than 2.5 units per net tract acre in areas classified Conservation, Rural or Resource Protection in the Wilmington - New Hanover Land-Use Plan, except under the following circumstances. If a development encompasses Resource
Protection or Rural areas, and Conservation areas, then density may exceed 2.5 units per acre in the Resource Protection or Rural area, provided the number of units in the Conservation area is reduced by an equal amount. At no time shall any portion of the project classified conservation exceed the 2.5 units/acre limitation, nor shall the overall density of the project exceed the limits specified in the respective residential zoning districts. For the purposes of this section, the conservation area shall include all lands following their natural topography that are at or below the 100 year flood elevation as shown on the Flood Insurance Rate Map and upland of any marsh line. (2/16/87)(10/99)(9/6/16)

(12) Any land designated as open space may be used in calculating the density for a proposed development subject to the provisions of Section 60.2 hereof. (12/1/84)(7/8/02)

(13) Buffer strips shall be required in accordance with Section 62. (5/6/85)

(14) The approximate delineation of Corps of Engineers Section 404 and Section 10 Wetlands. (10/99)

Sec. 51.1-3: The Technical Review Committee TRC shall meet with Planning staff to review the plans as submitted. Upon review and consultation of the Technical Review Committee shall either approve or deny the preliminary plan of a performance residential proposal. TRC meetings shall be scheduled every two weeks as necessary. Disapproval letters shall specify the reasons for disapproval. Conditional approvals may not be granted. Disapproved plans shall be returned to the applicant. Approved plans shall be forwarded to the zoning administrator to be processed under the requirements of Section 102. (3/22/82) (4/6/87) (8/02)

Revisions for Performance Residential Development shall be reviewed the same as an original submittal in accordance with the site plan requirements. Such revisions shall be limited to those areas still owned by the developer. Density calculations shall not include land areas already platted and/or sold. (7/02)
Section 51.2: AR Airport Residential District

51.2-1: The Airport Residential District is established for the purpose of limiting the development of land within the vicinity of the New Hanover County Airport to low density residential development. In promoting the general purpose of this Ordinance, the specific intent of this Section is: to minimize aircraft hazards by excessive density; to prohibit the development of places of assembly such as schools, hospitals, rest homes or other uses which tend to concentrate large numbers of people; and, to promote the health safety and general welfare of the inhabitants of New Hanover County by preventing the creation of hazards to the Airport, thereby protecting the lives and property of the users of the Airport and of occupants in the vicinity and preventing destruction or impairment of the utility of the Airport and the public investment therein.

51.2-2: DELETED (1/5/81)

51.2-3: DELETED (1/5/81)

51.2-4: Dimensional Requirements:

(1) Minimum lot area shall be 43,560 sq. ft.
(2) Minimum lot width shall be 100 feet.
(3) Minimum front yard shall be 25 feet.
(4) Minimum side yard shall be 20 feet.
(5) Minimum rear yard shall be 30 feet.
(6) Maximum height, unless otherwise specified by the New Hanover County Airport Height Zoning Ordinance, no building shall exceed thirty-five (35) feet in height.

51.2-5: Special Requirements - The following special requirements shall apply to each permitted or Special Use.

(1) Lighting

(A) A pulsating, flashing, rotating, oscillating, or other type of light intended as an attention-getting device shall be expressly prohibited.
(B) Flood lights, spot lights, or other lighting device shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.

(2) Radio and electronic

(A) Any radio or electronic device shall be permitted only in conjunction with a valid license or other authorization as may be issued by the Federal Communications Commission.
(B) Any radio or electronic device, the operation of which would violate any rules or regulations of the Federal Communications Commission is expressly prohibited.

(3) Visual hazards

(A) Any operation or use which emits smoke, dust, or creates glare or other visual hazards is expressly prohibited.

Section 51.3: RA Rural Agricultural District
(7/1/85)

51.3-1: The RA Rural Agricultural District is established as a district in which the principal use of land is for low density single family residential purposes. The regulations of this district encourage rural farming activities and the preservation of open space and permitting development compatible with the preservation of its rural character and providing limited growth. The district is designed to promote exurban, low density residential development not requiring urban services while maintaining prime farm land and a rural life style. Duplexes, residential clusters, attached residential, and high density attached residential uses shall not be permitted. (10/5/98)

51.3-2: Dimensional Requirements:

(1) Minimum lot area: 30,000 sq. ft.
(2) Minimum lot width: 115 feet
(3) Minimum side yard: 20 feet
(4) Minimum front yard: 40 feet
(5) Minimum rear yard: 30 feet
(6) Maximum height: 35 feet

The maximum allowable height for piling supported structures which are located in "Coastal High Hazard Areas, V-Zones," or Coastal A Zones as defined by the New Hanover County Flood Damage Prevention Ordinance shall be 44 feet. (11/04/19)

51.3-3: Parking
Parking and loading shall be provided in accordance with the provisions set forth in Article VIII.

51.3-4: Signs
Signs shall be in accordance with Article IX.

51.3-5: Performance Residential - The maximum density of Performance Residential development shall be 1.0 dwelling units per net tract acre (with net tract acre determined pursuant to Section 51.1-2(11).
Section 51.4: R-20S Residential District
(12/7/81)

51.4-1: The R-20S Residential District is established as a district in which the principal use of land is for low density single-family residential purposes. The regulations of this district are to permit development compatible with the preservation of its rural character and providing limited growth. It is designed to accommodate residential opportunities for those who desire exurban, low-density lifestyle and are willing to assume the costs of providing many of their own services and amenities while maximizing the protection of resources and the conservation of open space. Mobile homes, duplexes, residential clusters, attached residential and high density attached residential uses shall not be permitted.

51.4-2: **Dimensional Requirements:**

(1) Minimum Lot area 20,000 Square Feet
(2) Minimum Lot width 90 feet
(3) Minimum Front Yard 30 feet
(4) Minimum Side Yard 15 feet
(5) Minimum Rear Yard 25 feet
(6) Maximum Height 35 feet

The maximum allowable height for piling supported primary structures which are located in "Coastal High Hazard Areas, V-Zones," Coastal A Zones, and/or Ocean Hazard Areas as defined by the Coastal Resources Commission shall be 44 feet. (10/5/92) (11/04/19)

51.4-3: **Parking** - Parking and loading shall be provided in accordance with the provisions of Article VIII.

51.4-4: **Signs** - Signs shall be in accordance with Article IX.

51.4-5: **Mobile Homes** - Mobile homes, duplexes, residential clusters, attached residential and high density attached residential uses shall not be permitted. (12/7/81)

Section 51.5: R-20 Residential District

51.5-1: The R-20 Residential District is established as a district in which the principal use of land is for low density residential and recreational purposes. The regulations of this district are intended to discourage any use which because of its character would substantially interfere with the development of residences and which would be detrimental to the quiet residential nature of the areas included within this district.

51.5-2: **Conventional Residential Regulations**

Dimensional Requirements:

(1) Minimum lot area 20,000 sq.ft. Duplex 35,000 sq.ft.
(2) Minimum lot width 90 feet
(3) Minimum front yard 30 feet
(4) Minimum side yard 15 feet
(5) Minimum rear yard 25 feet
(6) Maximum Height 35 feet

The maximum allowable height for piling supported primary structures which are located in "Coastal High Hazard Areas, V-Zones," Coastal A Zones, and/or Ocean Hazard Areas as defined by the Coastal Resources Commission shall be 44 feet. (10/5/92) (11/04/19)

51.5-3: **Parking** - Parking and loading shall be provided in accordance with the provisions set forth in Article VIII.

51.5-4: **Signs** - Signs shall be in accordance with Article IX.

51.5-5: **Performance Residential** - The maximum density of Performance Residential development shall be 1.9 units per net tract acre (with net tract area determined pursuant to Section 51.1-2(11). (1/4/82)

**Section 51.6: R-15 Residential District**

51.6-1: The R-15 Residential District is established as a district in which the principal use of land is for residential purposes and to insure that residential development not having access to public water and dependent upon septic tanks for sewage disposal will occur at sufficiently low densities to insure a healthful environment.

51.6-2: **Conventional Residential Regulations**

Dimensional Requirements:

(1) Minimum lot area 15,000 sq.ft. Duplex 25,000 sq.ft.
(2) Minimum lot width 80 feet
(3) Minimum front yard 25 feet
(4) Minimum side yard 10 feet
(5) Minimum rear yard 20 feet
(6) Maximum height 35 feet

The maximum allowable height for piling supported primary structures which are located in "Coastal High Hazard Areas, V-Zones," Coastal A Zones, and/or Ocean Hazard Areas as defined by the Coastal Resources Commission shall be 44 feet. (10/5/92) (11/04/19)

(7) (7) DELETED (5/3/76)
(8) (8) Any lot in any subdivision platted and recorded prior to May 3, 1976 shall not be more than ten (10) percent less than the minimum lot area and minimum lot width established within the R-15 district, provided said lots are served by a community water system provided by the North Carolina Department of Human Resources Division of Health Services. (6/2/80)
51.6-3: Parking - Parking and loading shall be provided in accordance with the provisions set forth in Article VIII.

51.6-4: Signs - Signs shall be in accordance with Article IX.

51.6-5: Performance Residential - The maximum density of Performance Residential Development shall be 2.5 units per net tract acre (with net tract area determined pursuant to Section 51.1-2 (11). (1/4/82)

Section 51.7: R-10 Residential District

51.7-1: The R-10 Residential District is established as a district in which the principal use of land is for residential purposes with access to either public water or public sewer. If public water is not available, then the water system infrastructure must be installed in accordance with County standards and connected when a public supply becomes available. (4/1/96)

51.7-2: Conventional Residential Regulations

Dimensional Requirements:

1. Minimum lot area: 10,000 square feet (2/16/87)  
   Duplexes: 15,000 sq. ft. (1/5/81)
2. Minimum lot width 70 feet
3. Minimum front yard 25 feet
4. Minimum side yard 5 feet
5. Minimum rear yard 20 feet
6. Maximum height 35 feet

The maximum allowable height for piling supported primary structures which are located in "Coastal High Hazard Areas, V-Zones," Coastal A Zones, and/or Ocean Hazard Areas as defined by the Coastal Resources Commission shall be 44 feet. (10/5/92) (11/04/19)

51.7-3: Parking - Parking and loading shall be provided in accordance with the provisions of Article VIII.

51.7-4: Signs - Signs shall be in accordance with Article IX.

51.7-5: Performance Residential - The maximum density of Performance Residential Development shall be 3.3 units per net tract acre (with net tract area determined pursuant to Section 51.1-2 (11). (1/4/82)
Section 51.8: R-7 Medium Density Development  
(12/17/2012)

Purpose: The purpose of this section is to encourage medium density development in General Residential, Community Mixed Use, and Employment Center place types where adequate services are available. The district will allow greater variety of housing types provided that environmental impacts are minimized and adequate open space is provided. (9/6/16)

The intent of the medium density district is to:

A. Provide for greater population densities to facilitate high quality affordable housing, a greater range of lifestyles and income levels in close proximity to commercial and employment centers.  
B. Provide for the efficient delivery of public services and to increase residents’ accessibility to employment, transportation and shopping.  
C. Serve as a buffer and transition area between more intensively developed areas and lower density residential areas

51.8-1: Conventional Residential Regulations

Dimensional Requirements:
(1) Minimum lot area: 7,000 square feet (2/16/87)  
(2) Minimum lot width 50 feet  
(3) Minimum front yard 25 feet  
(4) Minimum side yard 8 feet  
(5) Minimum rear yard 20 feet  
(6) Maximum height 35 feet

51.8-2: Parking - Parking and loading shall be provided in accordance with the provisions of Article VIII.

51.8-3: Signs - Signs shall be in accordance with Article IX.

51.8-4: Performance Residential - The maximum density of Performance Residential Development shall be 6 units per net tract acre (with net tract area determined pursuant to Section 51.1-2 (11). (1/4/82)

51.8-5: All Medium Density Developments shall comply with the following requirements:

(1) Roadway access – R-7 zoning districts shall have direct access to at least one roadway classified as an arterial or collector on the most recent FHWA-approved functional classification map for the Wilmington urban area. R-7 zoning districts may also be located on streets which are designed and built to County or NCDOT collector street standards, which are not identified on the functional classification map.
(2) Buffer Strip - Buffer strips shall be required in accordance with Section 62.
(3) District Improvement Requirements - All medium density residential developments shall provide improvements as specified in the following table. Improvements shall be constructed in accordance with the standards set by the Cape Fear Public Utility Authority, County or appropriate local or State agency.
(4) Setbacks and Uses
(A) The required minimum setback for Medium Density development utilizing attached single family shall be thirty-five feet from any existing detached residential development (not including Mobile Home Parks, High Density, Planned Development or other R-7 development):

1. Reductions in setbacks
   (i) The required setbacks may be reduced as specified in Section 62. In no case, however, shall the minimum setback be less than 25 feet.

2. Uses in the yards
   (i) The part of the yard adjacent to the residential uses shall be used only for buffer strips and as specified in Section 62.

(B) In no case shall any part of a detached single-family dwelling unit be located closer than ten (10) feet to any part of any other detached single-family dwelling, and in no case shall any part of a multiple dwelling unit be located closer than twenty (20) feet to any part of another dwelling unit.

(5) When a development proposal is submitted under this Section, it shall be reviewed in accordance with the same standards as established in the Subdivision Ordinance even if the project does not involve the subdivision of land.

(6) Maximum allowable height for structures shall be 35 feet. However, the maximum allowable height for piling supported primary structures which are located in "Coastal High Hazard Areas, V-Zones," Coastal A Zones, and/or Ocean Hazard Areas as defined by the Coastal Resources Commission shall be 44 feet. (11/04/19)
Section 51.9: R-5 Moderate-High Residential District
(7/1/2019)

**Intent:** The intent of the R-5 Moderate-High Residential District is to provide moderate to high density residential development on smaller lots with a compact and walkable development pattern. R-5 zoning allows a range of housing types and can be developed in conjunction with a non-residential district to create a mixed-use development pattern as well as serve as a transition between mixed-use or commercial development and low to moderate density residential development, such as R-7 and R-10 zoning.

**Dimensional Requirements:**

<table>
<thead>
<tr>
<th>Conventional Subdivision Lots</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>5,000 sf detached single family</td>
</tr>
<tr>
<td></td>
<td>7,500 sf duplex</td>
</tr>
<tr>
<td></td>
<td>12,500 sf 3-unit attached single family</td>
</tr>
<tr>
<td></td>
<td>17,500 sf 4-unit attached single family</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>50 ft.</td>
</tr>
<tr>
<td>Front Setback (minimum)</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Rear Setback (minimum)</td>
<td>15 ft.</td>
</tr>
<tr>
<td>Side, Interior Setback (minimum)</td>
<td>7 ft.</td>
</tr>
<tr>
<td>Side, Street Setback (minimum)</td>
<td>10.5 ft.</td>
</tr>
</tbody>
</table>

**Performance Subdivision Lots**

| Maximum Density              | 8 units/acre                      |
| Perimeter Setbacks           | 20 ft.                           |
| Building Separation between detached single family | 10 ft.               |
| Building Separation between detached single family and duplex | 20 ft.               |
| Building Separation between 3+ unit attached and all other dwellings | 20 ft.               |

**Structure Size (maximum)**

| Height                       | 35 ft.                           |
Section 51.10: RMF-L Residential Multi-Family Low Density District
(7/1/2019)

Intent: The RMF-L District is established for moderate density single family and low density multi-family development of varying types and designs. It functions as an alternative housing type near or in direct relationship to single-family detached housing.

Dimensional Requirements:

<table>
<thead>
<tr>
<th>Conventional Subdivision Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
</tr>
<tr>
<td>5,000 sf  detached single family</td>
</tr>
<tr>
<td>7,500 sf  duplex</td>
</tr>
<tr>
<td>12,500 sf  3-unit attached single family</td>
</tr>
<tr>
<td>17,500 sf  4-unit attached single family</td>
</tr>
<tr>
<td>20,000 sf  multi-family (5+ attached units)</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
</tr>
<tr>
<td>50 ft.  detached single family</td>
</tr>
<tr>
<td>50 ft.  duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>100 ft.  multi-family</td>
</tr>
<tr>
<td>Front Setback (minimum)</td>
</tr>
<tr>
<td>20 ft.  detached single family</td>
</tr>
<tr>
<td>20 ft.  duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>35 ft.  multi-family</td>
</tr>
<tr>
<td>Rear Setback (minimum)</td>
</tr>
<tr>
<td>15 ft.  detached single family</td>
</tr>
<tr>
<td>15 ft.  duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>25 ft.  multi-family</td>
</tr>
<tr>
<td>Side, Interior Setback (minimum)</td>
</tr>
<tr>
<td>5 ft.  detached single family</td>
</tr>
<tr>
<td>5 ft.  duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>20 ft.  multi-family</td>
</tr>
<tr>
<td>Side, Street Setback (minimum)</td>
</tr>
<tr>
<td>10 ft.  detached single family</td>
</tr>
<tr>
<td>10 ft.  duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>30 ft.  multi-family</td>
</tr>
<tr>
<td>Maximum Density</td>
</tr>
<tr>
<td>10 units/acre</td>
</tr>
</tbody>
</table>

Performance Subdivision Lots (no minimum lot sizes, allows clustering)

<table>
<thead>
<tr>
<th>Maximum Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 units/acre</td>
</tr>
</tbody>
</table>

Perimeter Setbacks

<table>
<thead>
<tr>
<th>Building Separation between detached single family</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Separation between detached single family and duplex</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Separation between 3+–unit attached and all other dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 ft.</td>
</tr>
</tbody>
</table>

Structure Size (maximum)

<table>
<thead>
<tr>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 stories, with a maximum of 45 ft.*</td>
</tr>
</tbody>
</table>

* Heights over 35 ft. subject to additional setback of 4 additional feet.
Section 51.11: RMF-M Residential Multi-Family Moderate Density District
(7/1/2019)

Intent: The RMF-M District is established for moderate density single-family and multi-family
development of varying types and designs. It functions as a transitional land use between intensive
nonresidential uses or higher density residential areas and lower density residential areas. The district is
designed to provide a reasonable range of choice, type, and location of housing units within the
unincorporated county.

Dimensional Requirements:

<table>
<thead>
<tr>
<th>Conventional Subdivision Lots (specifies minimum lot sizes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
</tr>
<tr>
<td>5,000 sf  detached single family</td>
</tr>
<tr>
<td>7,500 sf  duplex</td>
</tr>
<tr>
<td>12,500 sf  3-unit attached single family</td>
</tr>
<tr>
<td>17,500 sf  4-unit attached single family</td>
</tr>
<tr>
<td>20,000 sf  multi-family (5+ attached units)</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
</tr>
<tr>
<td>50 ft.  detached single family plus</td>
</tr>
<tr>
<td>100 ft. multi-family</td>
</tr>
<tr>
<td>Front Setback (minimum)</td>
</tr>
<tr>
<td>20 ft.  detached single family plus</td>
</tr>
<tr>
<td>35 ft. multi-family</td>
</tr>
<tr>
<td>Rear Setback (minimum)</td>
</tr>
<tr>
<td>15 ft.  detached single family plus</td>
</tr>
<tr>
<td>25 ft. multi-family</td>
</tr>
<tr>
<td>Side, Interior Setback (minimum)</td>
</tr>
<tr>
<td>5 ft.  detached single family plus</td>
</tr>
<tr>
<td>20 ft. multi-family</td>
</tr>
<tr>
<td>Side, Street Setback (minimum)</td>
</tr>
<tr>
<td>10 ft.  detached single family plus</td>
</tr>
<tr>
<td>30 ft. multi-family</td>
</tr>
<tr>
<td>Maximum Density</td>
</tr>
<tr>
<td>17 units/acre</td>
</tr>
</tbody>
</table>

Performance Subdivision Lots (no minimum lot sizes, allows clustering)

| Maximum Density                                                                                   |
| 17 units/acre                                                                                    |
| Perimeter Setbacks                                                                               |
| 20 ft.                                                                                           |
| Building Separation between detached single family                                                 |
| 10 ft.                                                                                           |
| Building Separation between detached single family and duplex                                      |
| 20 ft.                                                                                           |
| Building Separation between 3+-unit attached and all other dwellings                              |
| 20 ft.                                                                                           |

Structure Size (maximum)

| Height                                                                                           |
| 3 stories, with a maximum of 45 ft.*                                                            |

* Heights over 35 ft. subject to additional setback of 4 additional feet.
**Section 51.12: RMF-MH Residential Multi-Family Medium-High Density District**  
(7/1/2019)

**Intent:** The RMF-MH District is established for medium-high density residential development of varying types and designs, with emphasis on midrise structures. It functions as a transitional land use between intensive nonresidential uses and lower density residential areas. The district is designed to be located near suburban shopping centers and employment centers.

**Dimensional Requirements:**

<table>
<thead>
<tr>
<th>Conventional Subdivision Lots</th>
<th>Minimum Lot Size</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4,000 sf detached single family</td>
</tr>
<tr>
<td></td>
<td>7,500 sf duplex</td>
</tr>
<tr>
<td></td>
<td>12,500 sf 3-unit attached single family</td>
</tr>
<tr>
<td></td>
<td>17,500 sf 4-unit attached single family</td>
</tr>
<tr>
<td></td>
<td>20,000 sf multi-family (5+ attached units)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Minimum Lot Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 ft. detached single family duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>90 ft. multi-family</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Front Setback (minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 ft. detached single family duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>30 ft. multi-family</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rear Setback (minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 ft. detached single family duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>25 ft. multi-family</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Side, Interior Setback (minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 ft. detached single family duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>20 ft. multi-family</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Side, Street Setback (minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 ft. detached single family duplexes, 3-unit &amp; 4 –unit attached</td>
</tr>
<tr>
<td>30 ft. multi-family</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Maximum Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 units/acre</td>
</tr>
</tbody>
</table>

**Performance Subdivision Lots**

<table>
<thead>
<tr>
<th>Maximum Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 units/acre</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Perimeter Setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Separation between detached single family</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Separation between detached single family and duplex</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Separation between 3+–unit attached and all other dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 ft.</td>
</tr>
</tbody>
</table>

**Structure Size (maximum)**

<table>
<thead>
<tr>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 stories, with a maximum of 45 ft.*</td>
</tr>
</tbody>
</table>

* Heights over 35 ft. subject to additional setback of 4 additional feet.
Section 51.13: RMF-H Residential Multi-Family High Density District  
(7/1/2019)

The RMF-H district is established for high density residential development of varying types and designs, with emphasis on midrise and high-rise structures. This district is designed to be located in close proximity to major population centers, areas identified for targeted growth, employment centers, and destination nodes.

**Dimensional Requirements:**

<table>
<thead>
<tr>
<th>Conventional Subdivision Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum Lot Size</strong></td>
</tr>
<tr>
<td>3,000 sf detached single family</td>
</tr>
<tr>
<td>6,000 sf duplex</td>
</tr>
<tr>
<td>9,000 sf 3-unit attached single family</td>
</tr>
<tr>
<td>12,000 sf 4-unit attached single family</td>
</tr>
<tr>
<td>15,000 sf multi-family (5+ attached units)</td>
</tr>
<tr>
<td><strong>Minimum Lot Width</strong></td>
</tr>
<tr>
<td>40 ft. detached single family</td>
</tr>
<tr>
<td>60 ft. duplexes, 3-unit &amp; 4-unit attached</td>
</tr>
<tr>
<td>80 ft. multi-family</td>
</tr>
<tr>
<td><strong>Front Setback (minimum)</strong></td>
</tr>
<tr>
<td>15 ft. detached single family</td>
</tr>
<tr>
<td>30 ft. duplexes, 3-unit &amp; 4-unit attached</td>
</tr>
<tr>
<td><strong>Rear Setback (minimum)</strong></td>
</tr>
<tr>
<td>15 ft. detached single family</td>
</tr>
<tr>
<td>25 ft. multi-family</td>
</tr>
<tr>
<td><strong>Side, Interior Setback (minimum)</strong></td>
</tr>
<tr>
<td>5 ft. detached single family</td>
</tr>
<tr>
<td>20 ft. duplexes, 3-unit &amp; 4-unit attached</td>
</tr>
<tr>
<td><strong>Side, Street Setback (minimum)</strong></td>
</tr>
<tr>
<td>10 ft. detached single family</td>
</tr>
<tr>
<td>30 ft. duplexes, 3-unit &amp; 4-unit attached</td>
</tr>
<tr>
<td><strong>Maximum Density</strong></td>
</tr>
<tr>
<td>36 units/acre</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Performance Subdivision Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Density</strong></td>
</tr>
<tr>
<td>36 units/acre</td>
</tr>
<tr>
<td><strong>Perimeter Setbacks</strong></td>
</tr>
<tr>
<td>20 ft.</td>
</tr>
<tr>
<td><strong>Building Separation between detached single family and duplex</strong></td>
</tr>
<tr>
<td>10 ft.</td>
</tr>
<tr>
<td><strong>Building Separation between 3+-unit attached and all other dwellings</strong></td>
</tr>
<tr>
<td>20 ft.</td>
</tr>
</tbody>
</table>

**Structure Size (maximum)**

| Height | 3 stories, with a maximum of 45 ft.* |

* Heights over 35 ft. subject to additional setback of 4 additional feet.
Section 52: Commercial Districts

Section 52.1: B-1 Business District

52.1-1: The purpose of this District shall be to provide convenient shopping facilities primarily of necessity goods and personal services required to serve a neighborhood. The district's principal means of ingress and egress shall be along collector roads, minor arterials, and/or major arterials as designated on the County's Thoroughfare Classification Plan. (8/4/86) No B-1 Business District shall be less than two (2) acres in area.

52.1-2: DELETED (1/5/81)

52.1-3: DELETED (1/5/81)

52.1-4: Dimensional Requirements:

   (1) Minimum Lot Area – None
   (2) Minimum Front Yard - Fifty (50) feet along US and NC numbered highways and major thoroughfares as designated by the Wilmington Area Thoroughfare Plan. Thirty-five (35) feet along all other public highways or streets.
   (3) Minimum side and rear yards for property abutting residential districts:
      (A) Required minimum setbacks for structures shall be calculated in accordance with Section 60.3.
      (B) Buffering and landscaping shall meet the requirements of Section 62.1-4. (3/9/88)
   (4) Maximum Building Height - Thirty-five (35) feet (12/13/82)

52.1-5: Parking - Parking and loading shall be provided in accordance with the provisions of Article VIII.

52.1-6: Signs - Signs shall be in accordance with Article IX.

52.1-7: DELETED (3/9/88)

Section 52.2: B-2 Highway Business District

52.2-1: The purpose of this district shall be to provide for the proper grouping and development of roadside business uses which will best accommodate the needs of the motoring public and businesses demanding high volume traffic. The district's principal means of ingress and egress shall be along collector roads, minor arterials, and/or major arterials as designated on the County's Thoroughfare Classification Plan. (8/4/86) No B-2 District shall be less than five (5) acres in area.

52.2-2: DELETED (1/5/81)
52.2-3: DELETED (1/5/81)

52.2-4: **Dimensional Requirements:**

1. Minimum Lot Area - None
2. Minimum Front Yard - Fifty (50) feet along US and NC numbered highways and major thoroughfares as designated by the Wilmington Area Thoroughfare Plan. Thirty-five (35) feet along all other public highways or streets.
3. Minimum side and rear yards for property abutting residential districts:
   - (A) The required minimum setbacks for structures shall be calculated in accordance with Section 60.3.
   - (B) Buffering and landscaping shall meet the requirements of Section 62.1-4 (3/9/88).
4. Maximum Building Height - 40 feet; except that buildings located within the Employment Center, Community Mixed Use, Urban Mixed Use, or Commerce Zone place types and fronting along a collector, Minor Arterial or Principal Arterial as indicated on the County's Thoroughfare Classification Plan, may exceed 40 feet provided their FAR does not exceed 1.0 (2/7/83) (10/5/95) (9/6/16)
   - The FAR may exceed 1.0, but shall not exceed 1.4 if:
     - (A) The ratio of the total building footprint to the total buildable site area does not exceed 40%, and
     - (B) The required parking (exclusive of off-loading and service parking) is included within the building footprint.

**NOTE:** Parking deck area calculations shall be excluded from the total building area calculations when computing the FAR and the total height of the parking structure shall be excluded from the height limits specified in this article.

If all surface parking (excluding visitor drop-off and pick-up) is within the building footprint, additional floor area can be added at the rate of 1 foot of floor per 1 foot of parking area. (4/06)

52.2-5: **Parking** - Parking and loading shall be provided in accordance with the provisions of Article VIII.

52.2-6: **Signs** - Signs shall be in accordance with Article IX.

52.2-7: DELETED (3/9/88)
Section 52.3: O&I Office and Institutional District

52.3-1: The purpose of the Office and Institutional District shall be to provide areas where institutional uses, professional office uses and other uses compatible to uses of an office or institutional nature shall be encouraged to locate and to provide protection for this type land use from encroachment by other less desirable uses. The district's principal means of ingress and egress shall be along collector roads, minor arterials, and/or major arterials as designated on the County's Thoroughfare Classification Plan. (8/4/86)

52.3-2: DELETED (1/5/81)

52.3-3: DELETED (1/5/81)

52.3-4: Signs and Lighting for Office and Institutional Districts:

(1) Advertising Signs: One sign of an advertising nature depicting the name or nature of a produce, service or business located on that premise shall be permitted on any premise in the O & I District. Such signs shall be limited to twelve (12) feet in surface area and shall not exceed the height of the principal structure on the premise. Such signs, if illuminated, shall be indirectly illuminated with the source of light concealed from the view of any public street or any residential lot.

(2) Directional Signs: Signs of a directional nature shall be permitted; however, each such sign shall not exceed two (2) square feet in surface area (one side) with no lighting and shall be limited to seven (7) feet in height.

(3) Outdoor lighting: The source of any outdoor lighting in an O & I District shall be concealed so as not to be visible from any public street or any residential lot.

(4) In the case of premises located adjacent to minor or major arterials as identified in the New Hanover County Thoroughfare Classification Plan, total signage shall be limited to 75 square feet in surface area. (1/2/96)

52.3-5: Required parking: (see Article VIII of the New Hanover County Zoning Ordinance for Parking Requirements)

52.3-6: Dimensional Requirements:

(1) Minimum lot area shall be 15,000 square feet
(2) Minimum lot width shall be 90 feet
(3) Minimum front yard shall be 25 feet
(4) Minimum side and rear yards for property abutting residential districts:

(A) The required minimum setbacks for structures shall be calculated in accordance with Section 60.3.
(B) Buffering and landscaping shall meet the requirements of Section 62.1-4. (3/9/88)
(5) Maximum Building height - 40 feet (2/7/83)

52.3-7: DELETED (3/9/88)

52.3-8: **Performance Residential** - The maximum density of performance residential development shall be 2.5 dwelling units per net tract area (with net tract area determined pursuant to Section 51.1-2 (11)).

**Section 52.4: SC Shopping Center District**

52.4-1: **Creation** - The Board of County Commissioners, on recommendation of the Planning Board, may rezone any area as a Shopping Center District on the findings that the area has the following characteristics:

1. The area contains a minimum of seven (7) acres.
2. The area does not extend across any major highway.
3. A shopping center in this location will not have unduly adverse effects upon existing residential properties which abut this district.
4. The street and highway system serving the area is adequate to handle the amount of traffic which the Shopping Center might reasonably be expected to generate, without creating undue hazards to safety or unreasonable impediments to the flow of other traffic.
5. Adequate utilities to serve the district are available.
6. The topography of the site is sufficient to accommodate a Shopping Center and its required off-street parking spaces.
7. The location of the proposed district is in general conformity with the Land Development Plan for New Hanover County.
8. The owner or owners of the entire area to be rezoned have joined in the petition for rezoning.
9. Buffer strips shall be required in accordance with Section 62. (5/6/85)

52.4-2: **Procedures** - In creating a shopping Center District, the same procedures shall be followed as those for making any other amendments to the Zoning Ordinance under Article XI hereof. In addition, the applicant for rezoning shall be required to submit the following as a prerequisite for consideration of the proposed amendment.

1. A written description of the market area intended to be served by the district including population, effective demand for proposed business facilities, and such other information as the Planning Board may reasonably require in order to determine the extent of the need for such a Shopping center at this location.
2. A site development plan for the proposed district showing the following features:
(A) The location and general exterior dimensions of main and accessory
building, and the types of uses proposed for each;

(B) A time schedule showing the successive stages of development for each
structure;

(C) A traffic and circulation plan showing ingress and egress to and from the
highway and the internal plan of circulation;

(D) Off-street parking and loading spaces in accordance with Article VIII
hereof;

(E) Topography at contour intervals no greater than two (2) feet

(F) The general drainage system, including both natural and man-made
features, and the proposed treatment of ground cover, slopes, banks and
ditches; and,

(G) The location and materials of walls and fences.

No amendment creating a Shopping Center District shall be enacted without concurrent
approval by the Board of County Commissioners of the site development plan for the
district. Where the Board of Commissioners finds that any of the requirements of this
Ordinance have not been met, or that the site plan fails to provide unity of development
with other business properties, or that it fails to adequately protect residential property
from the adverse effects of a business operation, or that it fails to provide safe conditions
for pedestrians, the Board may refuse to approve the site plan. After approval of the site
development plan, a copy of the approved plans shall be filed with the Zoning
Administrator, and no building permit shall be issued for any property within the area
except in conformity with the approved plans. No Certificate of Occupancy shall be issued
for any building or structure within the district until the Zoning Administrator finds that
required off-street parking and loading space for the building or structure and any other
necessary facilities shown on the plan have been constructed.

52.4-3: Failure to Comply with Plans - In event of failure to comply with the plans or the time
schedule for construction approved by the Board of Commissioners, no building permits
for further construction shall be issued. All completed structures shall be regarded as non-
conforming uses subject to the provisions of Article IV of this Ordinance; provided,
however, that the Board of Commissioners shall not be prevented from thereafter
re zoning said property for its most appropriate use.

52.4-4: Amendment of District Boundaries of Approved Site Plan - The Board of Commissioners
may from time to time amend the Ordinance so as to enlarge or diminish a Shopping
Center District or to rezone it entirely for other purposes; provided, however, that no
amendment shall reduce the size of such district to less than seven (7) acres, unless the
entire district is rezoned for other purposes. In making any such amendments, the same
procedures specified for creation of the original Shopping Center district shall be
followed. The owner or owners of property included in a shopping Center District may at
any time file a request for amendment of the approved site development plan. Such a
request shall be treated in the same manner as an amendment to the Zoning Ordinance
as provided in Article XI thereof.
52.4-5: DELETED (1/5/81)

52.4-6: **Dimensional Requirements** - No building or structure in a Shopping Center district shall be located nearer than fifty (50) feet to any street right-of-way abutting the district boundary or nearer than twenty-five (25) feet to any other property line along the district boundary.

**Section 52.5: Community Business (CB) District**
(7/1/2019)

**Intent:** The intent of the Community Business district is to provide for the development, growth, and continued operation of businesses that serve surrounding single and multi-family residential neighborhoods with goods and services needed for a variety of daily and long-term purposes. Community Business districts should be designed in a format and scale that is accessible to both vehicles and pedestrians. Community Business should be located within New Hanover County at intersections and along streets that will allow multiple neighborhoods access to the district’s businesses. Community Business zoning can serve as a buffer between higher density/intensity development and moderate or low density multi-family and single family neighborhoods.

**Dimensional Requirements:**

<table>
<thead>
<tr>
<th><strong>Lot &amp; Setback Requirements</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>½ acre</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>80 ft.</td>
</tr>
<tr>
<td>Front Setback (minimum)</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Rear Setback (minimum)</td>
<td>10 ft. generally 25 ft. when abutting residential district</td>
</tr>
<tr>
<td>Interior Side Setback (minimum)</td>
<td>0 ft. generally 20 ft. when abutting residential district</td>
</tr>
<tr>
<td>Corner Side Setback (minimum)</td>
<td>20 ft.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Structure Size (maximum)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Height</td>
</tr>
<tr>
<td>Floor Area per Development Site</td>
</tr>
</tbody>
</table>

* Heights over 35 ft. subject to additional setbacks and bufferyards of 4 ft.
**Section 52.6: Commercial Services (CS) District**  
(7/1/2019)

**Intent:** The Commercial Services district is established to accommodate a mixture of light manufacturing, wholesale, storage, commercial service and repair, and distributive business type uses. It functions as a support district to nearby intensive industrial and commercial uses. The district is designed to act as a transitional land use between intensive industrial and commercial development and less intensive commercial, office, and institutional uses.

**Dimensional Requirements:**

<table>
<thead>
<tr>
<th>Lot Requirements</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area, minimum</td>
<td>7,500 ft²</td>
</tr>
<tr>
<td>Lot width, minimum</td>
<td>65 ft.</td>
</tr>
<tr>
<td>Setbacks (minimum)</td>
<td>see Additional Yard Standards for building over 35 ft. in height</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>35 ft.</td>
</tr>
<tr>
<td>Side, street</td>
<td>25 ft. along highways &amp; major thoroughfares</td>
</tr>
<tr>
<td></td>
<td>17.5 ft. along all other public highways or streets</td>
</tr>
<tr>
<td>Side, interior</td>
<td>7 ft. generally</td>
</tr>
<tr>
<td></td>
<td>30 ft. when abutting residential district</td>
</tr>
<tr>
<td>Rear</td>
<td>15 ft. generally</td>
</tr>
<tr>
<td></td>
<td>35 ft. when abutting residential district</td>
</tr>
</tbody>
</table>

**Structure Size (maximum)**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Height</td>
<td>40 ft.*</td>
</tr>
</tbody>
</table>

* Heights over 35 ft. subject to additional setbacks and bufferyards of 4 ft.

**District Specific Requirements:**

Lighting: All new construction where exterior site lighting is provided shall observe the following limitations as to height:

A. Unrestricted lighting: 10 ft.
B. Ninety-degree cutoff lighting: 15 ft.

In no case shall lighting for new construction be located or installed so as to shine directly onto residential premises.
Section 53: Industrial Districts

Section 53.1: AI Airport Industrial District

53.1-1: The Airport Industrial District is established as a planned restricted industrial district in which the principal use of land is for indoor manufacturing and distributive type operations that are compatible with airport facilities and which require sites adjacent to railroads and/or major thoroughfares. In promoting the general purpose of this ordinance, the specific intent of this section is: to encourage the types of development having maximum compatibility with aircraft operations; to protect and to promote the public utility of the Airport; and, to promote the health, safety and general welfare of the inhabitants of New Hanover County by preventing the creation of hazards to the Airport, thereby protecting the lives and property of the users of the Airport and of occupants in the vicinity and preventing destruction or impairment of the utility of the Airport and the public investment therein.

53.1-2: DELETED (1/5/81)

53.1-3: DELETED (1/5/81)

53.1-4: **Dimensional Requirements**:

(1) Minimum lot area shall be 43,560 sq. ft.
(2) Minimum lot width shall be 150 feet.
(3) Minimum front yard shall be 50 feet.
(4) Minimum side and rear yards for property abutting residential districts:

   (A) The required minimum setbacks for structures shall be calculated in accordance with Section 60.3.
   (B) Buffering and landscaping shall meet the requirements of Section 62.1-4 (3/9/88).

(5) Maximum height, unless otherwise specified in the New Hanover County Airport Height Zoning Ordinance, no building shall exceed thirty-five (35) feet in height.
(6) Dimensional Requirements: Any property subdivided and recorded prior to 6/1/81 may be less than the minimum lot area established for the district, provided such lots are located outside of an approach zone for the New Hanover County Airport. (6/4/84) Additionally, any such property located within an airport approach zone may be approved by the Board of County Commissioners pursuant to the Conditional Use District process set forth in Section 55.2. (8/1/2011)

53.1-5: **Protection of Residential Areas** - It is required, in order to protect and promote existing or future residential development, that any means of direct access to or from any permitted or Special Use in the AI zone shall not be through any residentially zoned or developed area or along any street or road in any residential subdivision. (3/9/88) The
foregoing may be waived in AI districts pursuant to the Conditional Use District process set forth in Section 55.2. (8/1/2011)

53.1-6: **Special Requirements** - The following special requirements apply to each permitted or special use:

(1) Lighting

   (A) A pulsating, flashing, rotating, oscillating or other type of lighting intended as an attention-getting device shall be expressly prohibited.

   (B) Flood lights, spot lights or other lighting device shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.

(2) Radio and electronic

   (A) Any radio or electronic device shall be permitted only in conjunction with a valid license or other authorization as may be issued by the Federal Communications Commission.

   (B) Any radio or electronic device, the operation of which would violate any rules or regulations of the Federal Communications Commission is expressly prohibited.

(3) Visual hazards

   (A) Any operation or use which emits smoke, dust, or creates glare or other visual hazards is expressly prohibited. (All of Sections 51.2 and 53.1 were originally adopted 10/4/76)
Section 53.2: I-1 Light Industrial District  
(10/3/2011)

53.2-1: The I-1 zoning district is established to preserve land within the County for light industrial uses and associated operations, including assembly, fabrication, packaging and transport, where operations are conducted primarily indoors and where suitable sites are served by rail, waterway, highway transportation systems as well as readily available utilities. Heavy industrial uses in which raw materials are converted into products for subsequent assembly or fabrication or where uses create an excessive amount of noise, odor, smoke, dust, air borne debris or other objectionable characteristics which might be detrimental to surrounding areas are not appropriate in this district. Within the I-1 district, all operations conducted and all materials used or held in storage shall be contained within enclosed buildings, solid wall, fence or planting of such nature and height as to conceal such operation or materials from view from any roadway or adjacent properties. No I-1 district shall be less than five (5) acres in area.

53.2-2 Deleted (1/5/81)

53.2-3 Deleted (1/5/81)

53.2-4: Dimensional Requirements:

(1) Minimum Lot Area-None

(2) Minimum Front Yard- 50 feet

(3) Minimum side and rear yards for property abutting residential districts shall be calculated in accordance with Section 60.3.

(4) Maximum building height:

Forty (40) feet except for buildings located within the Employment Center or Commerce Zone place types and fronting along a Collector, Minor Arterial, or Principal Arterial as indicated on the Wilmington Metropolitan Planning Organization’s most current Roadway Functional Classification Map, may exceed forty (40) feet provided their FAR does not exceed 1.0. (2/7/83) (9/6/16)

53.2-5: Parking: Parking and loading shall be provided in accordance with the provisions of Article VIII.

53.2-6: Signs: Signs shall be in accordance with Article IX.

53.2-7: DELETED (3/9/88)

53.2-8: Existing Industrial Uses:  
(10/3/11)

These standards and any requirement for a special use permit shall apply to all new proposals in I-1 districts as shown on the Table of Permitted Uses. The term “existing industrial uses” shall mean
industries in active operation and open for business on a tax parcel zoned I-1 and developed for that particular use as of the day prior to the date of adoption of this section. Any existing industrial uses which did not require a special use permit as of the day prior to the date of adoption of this section would be considered a conforming use and shall not require a special use permit in order to continue operations.

53.2-8.1: Modifications and/or Expansions of Existing Industrial Uses: For modifications and/or expansions of existing industrial uses whose site conditions were in conformity with the requirements of this ordinance as of the day prior to the date of adoption, the following conditions must be met. If these conditions are not met, or if the existing industrial use is classified within the Intensive Manufacturing category, and the modification and/or expansion changes the particular use within that category, a special use permit will be required for the modification and/or expansion.

A. Modifications and/or Expansions on the Same Parcel: Modifications and/or expansions of existing industrial uses shall be allowed if fully contained on the tax parcel currently developed for and operating as such use and provided the following:

1. If the expansion and/or modification is for the same existing industrial use that was in active operation and open for business as of the day prior to the date of adoption of this section.
2. If the expansion and/or modification is for a less intensive industrial use than was in active operation and open for business as of the day prior to the date of adoption of this section. (Ex. An existing Intensive Manufacturing use could transition to a use in the Artisan, Limited or General Manufacturing category).
3. If the existing industrial use is classified within the General, Limited or Artisan Manufacturing categories, the use may expand and/or modify to a different use within that same category.

B. Modifications and/or Expansions onto Adjacent or Contiguous Parcels: Modifications and/or expansions of existing industrial uses shall be allowed on tax parcels adjacent or contiguous (excluding rights of way) to the current use, if properly zoned, and held in the same ownership as on the day prior to the date of adoption of this section (including successor ownership) and provided the following:

1. If the expansion and/or modification is for the same existing industrial use that was in active operation and open for business as of the day prior to the date of adoption of this section.
2. If the expansion and/or modification is for a less intensive industrial use than was operating as of the day prior to the date of adoption of this section. (Ex. An existing Intensive Manufacturing use could transition to a use in the Artisan, Limited or General Manufacturing category).
3. If the existing industrial use is classified within the General, Limited or Artisan Manufacturing categories, the use may expand and/or modify to a different use within that same category.

Section 53.3: I-2 Heavy Industrial District
(10/3/11)

53.3-1: The I-2 zoning district is established to set aside areas of the County for a full range of manufacturing, fabrication, assembly, warehousing, and distribution uses associated with heavy industrial land uses where heavy industry can find suitable sites served by rail, waterway and highway transportation. The district is also established to subsequently protect nonindustrial districts situated outside the district and minimize environmental impacts caused by the uses within the district. Outdoor operations and storage are appropriate for this district provided that the district standards are met. Certain uses within the I-2 district shall require a special use permit as specified in the Table of Permitted Uses. No I-2 District shall be less than five (5) acres in area.

53.3-2: DELETED (1/5/81)

53.3-3: DELETED (1/5/81)

53.3-4: Dimensional Requirements:

(1) Minimum lot area - None

(2) Minimum front yard building setback - 50 feet

(3) Minimum side and rear yard building setbacks for property abutting residential shall be calculated in accordance with Section 60.3.

(4) Buffers must be established between I-2 and adjacent, non-industrial uses, in accordance with Section 62.1-4 of this ordinance.

53.3-5: Parking – Parking and loading shall be provided in accordance with the provisions of Article VIII.

53.3-6: Signs – Signs shall be in accordance with Article IX.

53.3-7: DELETED (3/9/88)

53.3-8: Existing Industrial Uses:
(10/3/11)

These standards and any requirement for a special use permit shall apply to all new proposals in I-2 districts as shown on the Table of Permitted Uses. The term “existing industrial uses” shall mean industries in active operation and open for business on a tax parcel zoned I-2 and developed for that particular use as of the day prior to the date of adoption of this section. Any existing industrial uses
which did not require a special use permit as of the day prior to the date of adoption of this section would be considered a conforming use and shall not require a special use permit in order to continue operations.

53.3-8.1: Modifications and/or Expansions of Existing Industrial Uses: For modifications and/or expansions of existing industrial uses whose site conditions were in conformity with the requirements of this ordinance as of the day prior to the date of adoption, the following conditions must be met. If these conditions are not met, or if the existing industrial use is classified within the Intensive Manufacturing category, and the modification and/or expansion changes the particular use within that category, a special use permit will be required for the modification and/or expansion.

A. Modifications and/or Expansions on the Same Parcel: Modifications and/or expansions of existing industrial uses shall be allowed if fully contained on the tax parcel currently developed for and operating as such use and provided the following:
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   2. If the expansion and/or modification is for a less intensive industrial use than was in active operation and open for business as of the day prior to the date of adoption of this section. (Ex. An existing Intensive Manufacturing use could transition to a use in the Artisan, Limited or General Manufacturing category).
   3. If the existing industrial use is classified within the General, Limited or Artisan Manufacturing categories, the use may expand and/or modify to a different use within that same category.

B. Modifications and/or Expansions onto Adjacent or Contiguous Parcels: Modifications and/or expansions of existing industrial uses shall be allowed on tax parcels adjacent or contiguous (excluding rights of way) to the current use, if properly zoned, and held in the same ownership as on the day prior to the date of adoption of this section (including successor ownership) and provided the following:
   1. If the expansion and/or modification is for the same existing industrial use that was in active operation and open for business as of the day prior to the date of adoption of this section.
   2. If the expansion and/or modification is for a less intensive industrial use than was in active operation and open for business as of the day prior to the date of adoption of this section. (Ex. An existing Intensive Manufacturing use could transition to a use in the Artisan, Limited or General Manufacturing category).

If the existing industrial use is classified within the General, Limited or Artisan Manufacturing categories, the use may expand and/or modify to a different use within that same category.
Section 54: Mixed Use Districts

Section 54.1: Exceptional Design Zoning District (EDZD)  
(11/2/09) (11/13/12)

54.1-1: Intent - The Exceptional Design Zoning District (EDZD) provides opportunities for mixed use and high density residential projects within the unincorporated areas of the County where appropriate urban features are in place to support such projects without the negative impacts of urban sprawl. Through the conservation of water bodies, wetlands, floodplains and open space, it is intended that this district will prevent the degradation of water quality and foster the preservation of natural hydrology, habitat and biodiversity. In addition, the district is intended to provide design flexibility to achieve public and private spaces that advance a sense of community in a well-integrated service area that diminishes the need for vehicular traffic and encourages bicycle and pedestrian movements. The EDZD shall be located with respect to public and private facilities existing or clearly available by the time they are required within the development.

Physical character of the site and relation to surrounding property - The site shall be suitable for development in the manner proposed without creating hazards to persons or property, on or off the district, and free from the probability of flooding, erosion, subsidence or slipping of the soil or other dangers. Condition of soil, groundwater level, drainage and topography shall all be appropriate to both the kind and pattern of use intended. If appropriate to the form and function of development, lands to be included in EDZD districts may be divided by streets, alleys, rights-of-way or easements, but shall be located, dimensioned and arranged as to permit unified planning and development and to meet all requirements in connection therewith, as well as to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.

54.1-2: Applicability – Areas classified as Rural Residential place type, Conservation place type, AE or VE special flood hazard areas, or CAMA Estuarine Areas of Environmental Concern are not eligible for residential density greater than 2.5 units per acre, and such acreage, with the exception of area within the Rural Residential place type, must be subtracted from the acreage upon which density on other portions of the district is calculated. All other areas of the unincorporated planning jurisdiction for New Hanover County are eligible for the EDZD. (9/6/16)

54.1-3: Procedures for establishing Exceptional Design Zoning Districts

1) Applications; procedures and materials to be submitted. Approval for EDZD rezoning shall generally follow procedures for establishment of Planned Development Districts. Material submitted with the application as outlined below, or on subsequent request by the Planning and Land Use Department, shall include all plans, maps, studies and reports which may reasonably be required to make the determinations called for in the particular case. Applicants are recommended to meet with staff before substantial investments are made towards the design of exceptional development projects and are required to meet with staff to review the exceptional development concept and criteria prior to submitting an application. Application shall be made on forms provided by the County and in accordance with the schedule of deadlines for Planning Board submissions. The following procedures must be met:

   a. Meet with staff
   b. Hold 2 community meetings Section 111-2.1(11/13/12)
c. Prepare application and submit by application deadline. The application shall include:
   i. Survey map as well as metes and bounds description of the boundaries.
   ii. Map showing location of existing public water and sewer lines, roadway classification, existing or planned bicycle and pedestrian facilities, schools, parks, employment centers, and shopping districts within a ½ mile of the outermost project boundary.
   iii. An evaluation of traffic impacts prepared in accordance with a scope of work established by the Wilmington Metropolitan Planning Organization, NCDOT and New Hanover County, and signed by a licensed traffic engineer is required for all projects (based on proposed maximum density and intensity for the acreage). (11/13/12)
   iv. Narrative how the proposed project meets the required elements, as well as the intent, of the EDZD. (11/13/12)
   v. Inventory of the existing environmental, cultural, historical and natural site attributes.
   vi. A conceptual plan that shows with reasonable certainty the type and intensity of use for the proposal.
   vii. Summary of the meetings held with surrounding property owners.
   viii. A checklist of the prerequisite standards that will be met.
   ix. Application fee.
   x. Calculations of the requested density/intensity and documentation supporting the award of points for any density bonus.
   xi. Verifiable water and sewer expansion plans must be provided and allocation of capacity confirmed with the Cape Fear Public Utility Authority.
   xii. Phasing schedule indicating when each of the EDZD elements will be met. (11/13/12)
   xiii. The project must meet all applicable requirements of the County Zoning Ordinance.

d. Planning Board consideration and Board of Commissioners decision after public hearing.

54.1-4: District Regulations

1) The applicant must be the owner or owners of all the property to be included in the district and must demonstrate that the property is jointly owned or be subject to a formal agreement for unified control. Authorization to Construct shall not be issued until unified control is established. (11/13/12)
2) A district must include the entirety of the parcel or parcels being considered.
3) A district may not extend across any major or minor arterial roadway having three or more lanes of vehicular traffic unless the district proposes multiple, unified development phases of mixed uses having safe, signalized vehicular, pedestrian and bicycle facilities to connect the projects, such as crosswalk signals, pedestrian overpasses, refuge islands, etc. (11/13/12)
4) Deleted (11/13/12)
5) Deleted (11/13/12)
6) Deleted (11/13/12)
7) Underlying standards as described in Table 54.1-14.
8) The EDZD Certification must be assured during the first phase of development or prior to completion of more than 24 units, whichever comes first. A progress report shall be submitted after each phase indicating a proposed timeline for completion of the EDZD elements. (11/13/12)

54.1-5: Underlying Standards for Projects within an EDZD:

1) Maximum Building height: within 200 feet of any residential zoning district or residential use (4/6/10), building height shall not exceed forty (40) feet.
2) Building setbacks and separation: Buildings located on the periphery of the district shall be set back a minimum of twenty (20) feet from the district boundary. When the proposed setbacks from the periphery of the district are less than the proposed height of the buildings, the application shall include an explanation of how the project reasonably addresses privacy, light, air, and safety impacts upon adjoining properties.
3) Parking: Off-street parking shall be provided in accordance with Article VIII of the zoning ordinance. Projects that meet Section 54.1-14 Additional Requirements 1, 2, 3 and 4 may reduce the minimum parking requirements by 10% within the commercial component of the project.
4) Deleted (11/13/12)
5) Connected and Open Community: In order to promote projects that have high levels of internal connectivity and are well connected to the community at large, gates or other obstructions may not be utilized on roads entering, exiting or within the development. (11/13/12)
6) Landscaping and buffering shall be in accordance with Article 62, except that required buffers may be allowed within electric utility easements greater than 30 feet with the permission of the appropriate utility company and provided a memorandum of agreement is in place stating that the buffer will be maintained in perpetuity in accordance with the standards for size, opacity, and location.
7) Street Lights: Street lights shall be included at the rate of one fixture per 500 linear feet or less of roadway.
8) Deleted (11/13/12)
9) Lighting (4/6/10): All site lighting shall be located so as not to shine or reflect directly onto any adjacent residential property.

10) Open Space (4/6/10): Open space shall be provided within all exceptional design zoning districts and except as provided in section (c) below shall equal a minimum of 35% of the gross site area of the district. Open space is an area of land set aside, dedicated, or reserved for public or private use or enjoyment that shall be functional for uses including but not limited to: an area of environmental preservation and enhancement, park, internal courtyard, plaza, playground, playfield, atrium or greenway pedestrian and non-motorized vehicle easement. Open space may be natural or recreational.
   (a) Natural open spaces are intended to protect the natural environment, protect water quality, provide environmental education and provide habitat for wildlife. Natural open spaces include natural features such as wetlands and conservation overlay districts or otherwise undevelopable land. Natural open spaces shall not exceed 10% of the open space requirement.
   (b) Recreation open spaces may be active or passive and are intended to provide outdoor recreation opportunities or provide locations where the public is directly or indirectly invited to gather, browse, sit, interact or congregate. A maximum of 25% of the open space area may contain amenitized recreational facilities including swimming pools, golf courses, tennis courts and basketball courts. Unimproved passive recreation open spaces are encouraged.
   (c) If the proposed open space is less than 35%, or the types of open space do not conform to (a) and (b), the application shall include an explanation of how the project reasonably provides for spaces that enhance a sense of community and quality of life for the future residents or patrons of the EDZD. All open space shall remain undivided and be reserved and used in accordance with Section 60.2.

11) All other applicable provisions of the Ordinance shall apply.

54.1-6 Staff Recommendations - Planning staff, in consultation with other appropriate departments or personnel, shall prepare a written report to the Planning Board and Board of Commissioners, containing the following findings:
   1) As to the suitability of the proposals for the general type of function, the physical characteristics of the land, and relation of the proposed development to surrounding areas and existing and probable future development.
   2) As to the sufficiency of supporting evidence in the application showing that the proposed location can meet the basic criteria for exceptional design.
   3) As to the relation to major roads and mass transit facilities, utilities and other facilities and services.
   4) As to the adequacy of evidence on unified control and the suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions,
guarantees, or other instruments, or the need for such instruments, or for amendments in those proposed.

5) As to the suitability of plans proposed or the suggestion of conditions.

6) As to the consistency with the County's adopted Land Use Plan and other adopted plans for development in the vicinity, and suggesting how the rezoning might be reasonable and in the public interest if approved.

54.1-7 Actions by Planning Board; Board of Commissioners - Actions by the planning board shall be in the nature of a recommendation for or against the rezoning and may include suggested conditions of approval. The Board of Commissioners may grant the application in accordance with the EDZD regulations and other applicable local, state or federal requirements or may approve the application with conditions attached, or may deny the application.

54.1-8 Development to be in Accord with Approved Concept Plan and Related Regulations - If the rezoning is approved, the Board of Commissioners shall, approve the development concept plan as described in the application, or indicate required modifications in such approved plan, and such approval shall be binding in determinations concerning final development plans. If the rezoning is approved, the development shall be required to be in accord with approved concept plans and meet the requirements of these and other regulations, as approved. The development shall also conform to any time limitations established by the Board of Commissioners or the applicant as to beginning and completion of the development as a whole, or in specified stages. Before development may proceed, agreements, contracts, deed restriction, sureties and other instruments involved shall be in a form approved by appropriate officers or agencies.

54.1-9 Administrative Action for Approval of Final Plans

1) After an EDZD district has been established, no building permit shall be issued therein, unless and until the TRC and the Planning and Land Use Director have approved final plans and reports for the development as a whole or stages or portions as outlined upon approval. The form and content of such final plans and reports shall be as prescribed for the district, and in the rules of the county and other affected agencies. The final plan shall constitute the equivalent of preliminary plat approval under the New Hanover County Subdivision Ordinance.

2) Approval of final plans and reports shall be based on compliance with zoning regulations applying at the time the land was zoned to EDZD status, including such specific conditions as were included by the Board of Commissioners in its rezoning action. The Planning and Land Use Director shall certify that the conditions imposed by the Board of Commissioners have been met.

3) Upon approval of final plans and reports, building permits shall be issued in the same manner as for building permits generally, provided that any requirements relating to the order and location in which building permits are to be issued in the particular EDZD district shall be observed. Except as provided in this article, final plans and reports approval shall be binding on the applicants and any successor in title, so long as EDZD zoning is applied to the land.

54.1-10 Approval of Detailed Plans and Related Material is an Administrative Action

Approval of detailed plans and related material is an administrative action. No public notice or hearing is required in connection with approval proceedings of final plans or changes in approved plans, but the Technical Review Committee shall meet and approve the technical merits of the
final plan, and when the Planning and Land Use Director or his designee has certified that the plan approved by the Technical Review Committee meets all the requirements and conditions of the original approval, then signatures of the Planning and Land Use Director and the Chairman of the Technical Review Committee shall be affixed to the approved final plan.

54.1-11 Restrictions on Permitted Uses
The principal uses in an EDZD shall be as set out and approved in the original approving action, unless otherwise amended by the Board of Commissioners. After the concept plan has been approved, changes in any principal use or accessory use shall constitute a change in the approved EDZD and shall require approval by the Board of Commissioners.

54.1-12 Effect of Approval
Any area designated as an EDZD shall thereafter be developed using only the exceptional design standards and proposed conditions under which the EDZD is approved. Any reduction in the prerequisite standards after approval shall be considered a violation of the terms and conditions of approval. In accordance with NCGS153A-344.1(c) and (d), approval of the master plan shall establish a vested right. After 24 months from the date of original approval, if no construction activity has been permitted, the approval of the original concept plan and any approved final plan shall expire and new approvals based on standards existing for EDZD districts at that time shall be required. Extensions of vested rights beyond the first 24 months may be approved in accordance with Section 112-6. (11/13/12)

54.1-13 Modifications
Site specific development plans may be modified upon review and approval of the Planning and Land Use Director. Minor changes may be approved in the same manner as set forth in Sec. 71-1(9). Major modifications, including additional density bonuses may be approved by the Planning and Land Use Director or his designee and the TRC when the prerequisite standards are maintained and sufficient additional points accrue to support the request. However, modifications that conflict with small area neighborhood or corridor plans shall not be approved in this manner. Projects that remove components for which density or intensity bonuses have been awarded must modify the plan accordingly and submit for approval.

54.1-14 Exceptional Design District Standards Converted to Points
Density permitted by right for residential units in the district shall be six (6) units per acre. All proposals seeking to exceed six (6) units per acre must accumulate exceptional design bonus points sufficient to qualify for the proposed densities or intensities. (11/13/12)

The following table includes the criteria that shall enable a project to be classified as an Exceptional Design District and allow for the density bonuses herein provided. The first six (6) criteria are required for any project to initially qualify for Exceptional Design review. In addition to the first six criteria, an additional twelve (12) points are required from the remaining ten (10) additional criteria. Planning and Land Use Director will determine whether criteria are properly met.
### CORE REQUIREMENTS *(italicized items are further defined in Definitions Section)*

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description</th>
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</table>
| 1. **Smart Location** | **Option 1**: Locate project on an *infill site* or *previously developed site*.  
**Option 2**: Locate project on an adjacent site with *pre-project connectivity*.  
**Option 3**: Locate project near *existing or planned adequate transit service*.  
**Option 4**: Locate project *near existing neighborhood shops, services, and facilities*.  

**REQUIRED** |
| 2. **Proximity to Water and Wastewater Infrastructure** | **Option 1**: Locate project on a site served by existing water and wastewater infrastructure. Replacement of or other on-location improvements to existing infrastructure are considered existing for the purpose of achieving this option.  
**Option 2**: Locate project within an area scheduled for water and sewer expansion where verifiable expansion plans can be provided and allocation of capacity can be confirmed with the Cape Fear Public Utility Authority.  

**REQUIRED** |
| 3. **Significant Species and Ecological Communities** | **Option 1**: After consultation with the *NC Natural Heritage Program map* as found on the New Hanover County online mapping services, no species present or likely to be present that are listed under the federal Endangered Species Act, NC endangered species list or listed in the NC Natural Heritage Program as either Nationally, State or Regionally Significant.  
**Option 2**: If initial consultation with the NC Natural Heritage Program map is inconclusive, then a qualified biological scientist performs biological surveys to determine the presence of endangered or significant species or the applicant consults with the NC Natural Heritage Program in Raleigh to receive a State determination.  
**Option 3**: If endangered or significant species are found, comply with an approved Habitat Conservation Plan (HCP) under the Endangered Species Act for each species or receive an approved mitigation plan from the NC Natural Heritage Program.  
**Option 4**: If endangered or significant species are found and no approved HCP exists, work with an appropriate authority to create and develop one or develop an approved mitigation plan with the NC Natural Heritage Program.  

**REQUIRED** |
| 4. **Wetland and Water Body Conservation and Preservation** | To prevent bacterial contamination of surface water, install pet waste stations within required open spaces and implement a maintenance schedule for the pet waste stations.  

**REQUIRED** |
**Option 1:** Locate project on a site that includes no jurisdictional wetlands, water bodies (including but not limited to intermittent and perennial streams) or land within 100 feet of these areas.

**Option 2:** Locate project such that pre-project jurisdictional wetlands, water bodies (including but not limited to intermittent and perennial streams), and land within 100 feet of such areas shall not experience significant destruction or lasting detrimental effects to water quality or other protected natural resources as a result of new development. Significant destruction shall include the construction, excavation, deposition, of materials in, over or on such land or any work that would affect the course, location, condition, or capacity of the receiving water body. Create a long-term management plan for on-site water bodies and wetlands and their buffers, and create a guaranteed funding source for management. (11/13/12)

**5. Floodplain Avoidance**

**Option 1:** Locate on a site that does not contain any land within a 100-year floodplain.

**Option 2:** Locate the project on an infill site or a previously developed site and comply with the NFIP requirements for developing portions of the site that lie within the floodplain.

**Option 3:** Develop only on portions of the site that are not in a floodplain or on portions that have been previously developed.

**6. Stormwater Management**

Implement a comprehensive stormwater management plan for the project that infiltrates and reuses stormwater runoff. Stormwater shall be managed following the principles prescribed in the New Hanover County-City of Wilmington Joint Low Impact Development Manual and will enable a project to use the LID-EZ Spreadsheet Tool. A determination that a project qualifies as a Low Impact Development shall be made by the Technical Review Committee (TRC).

**REQUIRED**

**ADDITIONAL REQUIREMENTS (MINIMUM OF 12 POINTS FROM THE CRITERIA LISTED BELOW IN ADDITION TO THE CORE REQUIREMENTS)**

<table>
<thead>
<tr>
<th>1. Mixed-Uses* (11/13/12)</th>
<th>2 points</th>
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<tbody>
<tr>
<td>Include a residential component in the project that constitutes at least 25% of the project’s total building square footage. Design or locate the project such that at least 50% of the dwelling units are within 1/2 mile walk distance of at least three (3) of the diverse uses in the Diversity of Uses List in Section 53.6 of this Ordinance. At least one use from two of the three diverse use categories within the diversity of uses list is required.</td>
<td>2 points</td>
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<tr>
<td>*For a project to qualify for more than six (6) units per acre, the mixed uses requirement must be satisfied.</td>
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<tr>
<th>2. Bicycle and Pedestrian Access</th>
<th>2 or 4 points</th>
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<tbody>
<tr>
<td>Provide an internal bicycle and pedestrian network that includes a pedestrian or bicycle through-connection in at least 90% of any new cul-de-sacs, except where prohibited by topographical conditions.</td>
<td>2 or 4 points</td>
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-and-

Provide **bicycle parking and storage** for developments that contain multifamily retail and commercial development.

-and-

Design and/or located the project to meet at least one of the following two options*:

**Option 1:** A planned **bicycle network** of at least 5 continuous miles in length is within ¼ mile bicycling distance of the project boundary. For planned bicycle networks, the network must be listed in a plan adopted by the Board of Commissioners. **(2 points)**

**Option 2:** An existing **bicycle network** of at least 5 continuous miles in length is within ¼ mile bicycling distance of the project boundary and connects to either a school, employment center, or commercial center that contains at least seven (7) of the uses in the Diversity of Uses List. **(4 point)**

(*Points will be awarded based on which option is selected, however, points will not be awarded for both options.) (11/13/12)

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<tr>
<th>3. Housing and Jobs/Commercial Opportunity Proximity</th>
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<tr>
<td><strong>Option 1:</strong> Include a residential component equaling at least 30% of the project’s total building square footage, and locate and/or design the project such that the geographic center is within a ½ mile walk distance of pre-project full-time equivalent jobs equal to or greater than the number of dwelling units in the project.</td>
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<tr>
<th>4. Deleted (11/13/12)</th>
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<th>5. Deleted (11/13/12)</th>
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<tr>
<th>6. Transit Facilities</th>
<th>4 points</th>
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<tr>
<td>Locate development within½ mile of an existing or planned transit route. The transit agency must certify that is has an approved budget that includes specifically allocated funds sufficient to provide the planned service and that service will commence no later than occupancy of 50% of the project’s total building square footage. <strong>(11/13/12)</strong></td>
<td>4 points</td>
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<tr>
<td>-and-</td>
<td>4 points</td>
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<tr>
<td>Provide or identify covered and at least partially enclosed shelters, adequate to buffer wind and rain, with at least one bench, at each transit stop.</td>
<td>4 points</td>
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<td>-and-</td>
<td>4 points</td>
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<tr>
<td>Provide kiosks, bulletin boards, and/or signs devoted to providing local public transit information as part of the project, including basic schedule and route information at each public transit stop within or bordering the project.</td>
<td>4 points</td>
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<tr>
<th>7. Certified Green Building</th>
<th>2 points</th>
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<tr>
<td>Design, construct, or retrofit one whole residential or non-residential building to be <strong>certified</strong> through: LEED, NAHB Green Building Standards, North Carolina Healthy Built Homes or Green Globes.</td>
<td>2 points</td>
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<th>8. Minimum Building Energy Efficiency</th>
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<tr>
<td>For non-residential, mixed use, and multifamily residential buildings four stories or greater, new buildings must meet at least three of the additional requirements listed in the N.C. Energy Conservation Code for Commercial Buildings. <strong>(11/13/12)</strong></td>
<td>2 points</td>
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residential buildings, 90% of new buildings must meet the HERO option listed within the Energy Conservation Code of the N.C. State Building Code. (11/13/12)

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<thead>
<tr>
<th>9. On-Site Renewable Energy Sources</th>
<th>2 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incorporate on-site nonpolluting renewable energy generation, such as solar and geothermal energy with production capacity of at least 5% of the project’s annual electrical and thermal energy cost (exclusive of existing buildings), as established through an accepted building energy performance simulation tool. (11/13/12)</td>
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<thead>
<tr>
<th>9. Water Efficient Landscaping</th>
<th>2 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incorporate on-site nonpolluting renewable energy generation, such as solar and geothermal energy with production capacity of at least 5% of the project’s annual electrical and thermal energy cost (exclusive of existing buildings), as established through an accepted building energy performance simulation tool. (11/13/12)</td>
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</tbody>
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<table>
<thead>
<tr>
<th>10. Native Landscapes</th>
<th>2 points</th>
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</thead>
<tbody>
<tr>
<td>Complete a comprehensive inventory of existing trees and vegetation on site and identify vegetation that is native, nonnative or invasive. Create a landscape plan that preserves and enhances native landscapes and eradicates or prevents the spread of nonnative and invasive species. All noninvasive significant trees in good or excellent condition shall be maintained as part of this plan. (11/13/12)</td>
<td></td>
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<table>
<thead>
<tr>
<th>10. Building Orientation</th>
<th>2 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design the project so that a minimum of 75 percent of the building sites are constructed with the longer dimension of the structure facing 0-30 degrees of south.</td>
<td></td>
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<thead>
<tr>
<th>11. Affordable Housing</th>
<th>4 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Include a minimum of 15% of the dwelling units as rental and/or for-sale dwelling units priced for households earning below area median income (AMI). Rental units must be maintained at affordable levels for a minimum of 15 years.</td>
<td></td>
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</tbody>
</table>

*No partial points will be awarded. Points will not be awarded on a sliding scale.

**BONUS AWARDS:**

Bonuses points will accrue after satisfaction of the “Core + 12 points” minimum exceptional criteria above. The mixed uses criteria must be satisfied in order to accrue bonus points. (11/13/12) When the project proposed has established the minimum criteria, any additional points derived from within the elective categories above may be applied toward density or floor area ratio bonuses. Points may not be double counted and no partial points will be awarded. Density bonus shall be awarded at a rate of one (1) additional dwelling unit per acre for each additional point accrued over the minimum exceptional criteria or one tenth (1/10) additional FAR for each two additional points.
Diversity of Uses List

Use One: Retail
Convenience Store
Florist
Hardware Store
Pharmacy
Grocery Store
Miscellaneous retail

Use Two: Services
Bank
Coffee Shop
Hair care
Health club
Laundry/dry cleaner
Medical/dental office
Restaurant
Offices for private business and professional activities

Use Three: Civic/Community Facilities
Child care (licensed)
Civic/community center
Place of worship in a building
Police/fire station
Post office
Public library
Public park
School
Senior care
Social services facility

Diversity of Uses Table (Deleted 11/13/12)
Definitions

Walk Distance: For the specified walk distance, the pedestrian must be able to travel between origins and destinations without obstruction, in a safe and comfortable environment on a continuous network of sidewalks, all-weather-surface footpaths, crosswalks, or equivalent pedestrian facilities. Pedestrians should not have to cross a street with speed limits greater than 35 mph without signals or stop signs at crosswalks. (11/13/12)

Core Requirement 1: Smart Location

Infill Site is defined as a site where at least 75% of the perimeter of the property borders parcels that have been previously developed.

Previously Developed is defined as a site having pre-existing impervious coverage that would typically have required regulatory permitting to have been initiated.

Pre-project connectivity may be met when the proposed project is located so that 25% of the project boundary is adjacent to a previously developed property and connectivity of the site and adjacent land is at least ninety (90) intersections/square miles as measured within a ½-mile distance of a continuous segment of the project boundary. Locate and/or design the project such that a through street and/or nonmotorized right-of-way intersects the project boundary at least every 800 feet, connecting with an existing street and/or right-of-way outside the project. (4/6/10)

Existing or planned adequate transit service: At least 50% of dwelling units and business entrances within the project must be located within ½ mile walk distance of existing or planned bus transit stops. For planned transit stops, the transit agency must certify that it has an approved budget that includes specifically allocated funds for the transit stop and that the stop will be constructed no later than occupancy of 50% of the project’s total building square footage. (11/13/12)

Location of project near existing neighborhood shops, services, and facilities: The project boundary must be within ¼ mile walk distance of at least five (5) or within ½ mile walk distance of at least seven (7), of the diverse uses in the Diversity of Uses List in Section 54.1-14 of the Ordinance. Uses must include at least one use from each of the three diverse use categories with the following limitations: a) uses may not be counted in two categories, e.g. a school or place of worship may be counted only once even if it also contains a daycare facility; b) a mixed use building containing several uses as distinctly operated enterprises with separate exterior entrances may count each as a separate use, but no more than half of the minimum number of diverse uses can be situated in a single building or under a common roof; c) a single retail store of any type may only be counted once even if it sells products associated with multiple use types.
Core Requirement 3: Significant Species and Ecological Communities
The Natural Area Inventory for New Hanover County shall be found on the New Hanover County Planning and Land Use Department’s website. The Inventory was designed to identify the highest quality natural areas and natural communities in New Hanover County. Only Significant species are determined to be regulated under this requirement.

Core Requirement 4: Wetland and Water Body Conservation and Preservation
Long-term management plan – This plan must manage the identified resource for at least ten (10) years and include biological objectives consistent with habitat and/or water resource conservation. The plan should identify the following: a) procedures for maintaining the conservation areas and personnel to carry out those procedures, and b) estimated implementation costs and funding sources.

Core Requirement 6: Stormwater Management
The New Hanover County-City of Wilmington Joint Low Impact Development Manual shall be downloaded from the New Hanover County Planning website. In order to meet this requirement, a determination that the project is in fact a Low Impact Development project, must be made by the County’s Technical Review Committee (TRC). Representatives from the project are encouraged to meet with County Planning and Engineering staff prior to submittal of the project to the County’s TRC.

Additional Requirement 2: Bicycle and Pedestrian Access
Bicycle Network: A continuous network consisting of any combination of physically designated in-street bicycle lanes at least four (4) feet wide, off-street bicycle paths or trails at least at least five (5) feet wide, and/or streets with low traffic volumes designed to carry neighborhood traffic (bicycle through-streets). Refer to AASHTO bicycle and pedestrian standards for appropriate design and construction. (11/13/12)

Bicycle Storage for Multifamily Residential: In order to meet this requirement, the project must provide secure bicycle racks on-site with at least one bicycle space per ten (10) dwelling units and no fewer than four (4) spaces per project site.

Bicycle Storage for Retail: The project must provide secure visitor, customer and/or employee bicycle racks on site, with at least one bicycle space per 5,000 square feet of retail space, but no fewer than one bicycle space per business or four bicycle spaces per project site, whichever is greater.

Bicycle Storage for Commercial Non-Retail: The project must provide secure employee and/or visitor bicycle racks on-site with at least one bicycle space per 10,000 square feet of commercial non-retail space but not fewer than four bicycle spaces per building.
**Additional Requirement 5: Certified Green Building**

Building certification must be completed by the applicable program’s third party certification program (i.e.: NAHB Green Building Certification must be conducted through the local NAHB certification program).

**Additional Requirement 7: Deleted (11/13/2012)**

**Additional Requirement 11: Affordable Housing**

For rental units, affordability must be priced for households earning 80% of the area median income (AMI). Rental limits are calculated annually based on the HUD Standard Income and Rent Limits table. For sale units, affordability will be based on sale price limits established by the North Carolina Housing Finance Agency First-Time Home Buyer Mortgage and Down Payment Assistance Program. (4/6/10)

**Section 54.2: Planned Development (PD) District**

54.2-1: **Intent** – The Planned Development district is established to encourage innovative land planning and site design concepts that support a high quality of life and achieve a high quality of development under an integrated development plan that would otherwise not be possible under general district requirements. It is designed to:

1. Create new planned development districts for specialized purposes where tracts are suitable in location, area, and character for development on a unified basis;
2. Promote economical and efficient patterns of land use that are sensitive to natural features;
3. Reduce automotive traffic congestion by a reasonably close relationship between origins and destinations of persons living, working, or visiting in such development; and
4. Encourage unified developments consistent with the goals of the county's Comprehensive Plan and compatible with surrounding land uses. (7/1/2019)

54.2-2: **District Regulations:**

1. Minimum District Size: A contiguous gross land area of 10 acres or more under common ownership or joint petition.
2. Maximum Building Height: The maximum building height for residential, commercial, and office and institutional structures shall be forty (40) feet; except that the maximum height for buildings located within the Urban Mixed Use, Community Mixed Use, or Employment Center place types as indicated on the County's Land Classification Map and fronting along a collector, minor arterial or principal arterial as indicated on the Wilmington Urban Area MPO functional classification map shall be eighty (80) feet. (10/5/95) (8/1/11) (9/6/16)
Building Setback and Separation: Residential buildings located on the periphery of the PD District shall be setback a minimum of twenty (20) feet from the PD District boundary. Industrial uses must meet the setback requirements outlined for the I-1 district. Commercial and office uses must meet the setback requirements outlined for the CB district. (7/1/2019)

All buildings shall be setback at least ten (10) feet from all pedestrian and bicycle paths and fifty (50) feet along US and NC numbered highways and major thoroughfares. No building shall encroach upon the right-of-way of a proposed thoroughfare as designated by the Wilmington Area Thoroughfare Plan or its equivalent adopted transportation planning document. In no case shall any part of a detached single family dwelling unit or its accessory structure be located closer than ten (10) feet to any part of any other detached single family dwelling or its accessory structure; and in no case shall any part of a multiple dwelling unit or its accessory structure be located closer than twenty (20) feet to any part of another dwelling unit, accessory structure, or non-residential buildings. (2/87) (11/05) (8/1/11)

Land Use Mixture: No more than thirty (30) percent of the PD District shall be used for light industrial, commercial, and office and institutional purposes.

Maximum Density: (1/2/90)

(A) Allowable density shall be determined by the Site Capacity Standards for High Density Development as authorized in Section 72-43 of this Ordinance, except that land intended for commercial, office and institutional, and industrial uses shall also be subtracted from the gross site area. The residential density factor of the PD district shall be 4.25 dwelling units per acre if the PD shall be located within the Urban Mixed Use, Community Mixed Use, General Residential, or Employment Center place types. (10/5/95) (9/6/16)

(B) Residential units shall not be allowed at a density greater than 2.5 units per acre in the AE and VE special flood hazard areas and CAMA Estuarine Areas of Environmental Concern. (2/16/87) (9/6/16)

(C) If the PD District shall be located within the Employment Center, Urban Mixed Use, or Community Mixed Use place types, the residential density factor of the PD District may be increased by using the following "Density Bonus Chart". An increase in density from 4.25 to 10.2 dwelling units per acre requires a total score of 75 points or more. An increase in density from 10.2 to 17 units per acre requires a total score of 165 points or more. (2/16/87) (10/5/95) (8/1/11) (9/6/16)
### Density Bonus Chart

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Density Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjacent to a Minor or Principal Arterial Facility as indicated on the County's Thoroughfare Classification Plan and providing a public collector road plan and a public or private local street plan that include sidewalks and bicycle facilities to provide an efficient variety of choices for moving people around and through the proposed development</td>
<td>15</td>
</tr>
<tr>
<td>Within one mile by road of established businesses sufficient to support a total employment equal to 85% of the anticipated labor force (calculated at one worker per unit) of the PD district population.</td>
<td>15</td>
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<tr>
<td>If the PD is located in a manner that satisfied at least two of the following criteria: 1. Within one road mile of a neighborhood convenience store offering basic grocery items and other items. 2. Within two road miles of a community shopping center. A community shopping center is defined as a site with a common parking area, a grocery store, and at least two of the following types of retail establishments: drug store, hardware store, dry cleaners, variety retail, department store, discount store or restaurant. 3. Within three miles of regional shopping center consisting of over 100,000 sq. ft. of retail space for sales and storage.</td>
<td>15</td>
</tr>
<tr>
<td>At least 1/2 mile inland of coastal wetlands, estuarine waters, estuarine shorelines and public trust waters and preserves riparian buffers and incorporates LID techniques for stormwater controls.</td>
<td>25</td>
</tr>
<tr>
<td>All structures are located beyond the 100-year floodplain as designated on the County's Official Flood Insurance Maps.</td>
<td>20</td>
</tr>
<tr>
<td>Outside the County’s most sensitive aquifer recharge area (Area No. 2) as shown on the Aquifer Sensitivity Map for New Hanover County.</td>
<td>15</td>
</tr>
<tr>
<td>Bus or shuttle transportation.</td>
<td>10</td>
</tr>
<tr>
<td>Solid waste transfer station.</td>
<td>30</td>
</tr>
<tr>
<td>At least 5% of the total number of dwelling units in the PD District are designated and reserved on the Master Land Use Plan for either handicapped or households with income less than 60% of the median household income for New Hanover County.</td>
<td>20</td>
</tr>
<tr>
<td>Public access and public waterfront facilities provided, such as docks, piers, and boat ramps or shoreline parks and boardwalks</td>
<td>25</td>
</tr>
<tr>
<td>All residential units will meet LEED, Healthy Build Home, ICC700 Green Building Standards, or Green Globes designation.</td>
<td>20</td>
</tr>
<tr>
<td>Alternative energy systems supply at least 20% of the total non-renewable energy consumption for space and hot water heating. Alternative energy systems, for purposes of this Ordinance, are defined as constructed passive or active systems. Passive systems shall be evaluated using the solar load ratio method and active systems using the F-chart system. Points will not be awarded for this incentive unless the conditions for the above incentive concerning thermal standards are also met.</td>
<td>20</td>
</tr>
<tr>
<td>Recreational facilities other than tot lots and mini-parks. These recreational facilities may include, but are not limited to, tennis courts, golf courses, ball fields, basketball courts, and community recreation buildings or community gardens. Points will be awarded at a rate of one point for each $5,000 of investment (not including land or design costs), up to a maximum of 20 points. Adequacy of design and improvements, and cost estimates will be evaluated by the County Parks Department.</td>
<td>20</td>
</tr>
</tbody>
</table>
The following minimum improvements and public services shall be provided in accordance with all standards set by the County or appropriate local or State agency:

(A) Water supply and sewer facilities; (8/3/87) provided by the Cape Fear Public Utility Authority or an equivalent agency.

(B) Fire hydrant and water supply systems that meet the standards specified in the National Fire Protection Association Standard as amended.

(C) Repealed (8/1/11)

(D) Repealed (8/1/11)

(E) A drainage plan pursuant to Section 52-5 of the Subdivision Ordinance. (5/5/97) and the New Hanover County Stormwater Ordinance

(F) Repealed (8/1/11).

(G) Street lights, at the rate of one fixture per 500 linear feet or less of roadway.

(H) Tot lots and/or mini-parks (adequacy of design and improvements to be evaluated by County Parks and Recreation Department), at the rate of one acre or more per 1,000 population and within 1 mile distance of residential areas to be served by them. Sidewalks or pedestrian trails shall establish a safe network for accessing these facilities (8/1/11).

(I) Audible fire alarm systems connected directly to a central Dispatch System for all structures except single-family and duplex residential. (8/1/11)

(J) Parking: Off-street parking shall be provided in accordance with Article VIII of this Ordinance, except that design of parking lots or shared parking facilities may be approved with minor dimensional deviations, when the TRC concurs and provided the number of required spaces is not reduced. (8/1/11)

(K) Signs: Signs shall be in accordance with Article IX of this Ordinance. The developer shall be responsible for erecting and maintaining street name signs at all intersections within the PD District. Signs on public streets shall conform with existing Department of Transportation regulations.

(L) Community Property Owner's Association: A Community Property Owner's Association shall be established in accordance with Sections 60.2 and 60.5 of the Zoning Ordinance. Rights-of-way platted for public use may not be altered to private rights-of-way by any action of a community property owners association unless approved by the Technical Review Committee. (8/1/11)

(M) Required Master Land Use Plan
1. A Master Land Use Plan and necessary documents shall be submitted along with the rezoning petition. The Master Land Use Plan shall consist of an overall land use plan showing existing and proposed development for the PD District as a whole.

2. The Master Plan shall be prepared by a multi-disciplinary team consisting of qualified practitioners in architecture, planning, and engineering.

3. Contents of the Master Land Use Plan shall include the following:

   a. Scale not less than one (1) inch to four hundred (400) feet.
   b. North Arrow
   c. Vicinity or Location Map
   d. Development name
   e. Owner's name and address
   f. Developer (if other than owner)
   g. Names of design team
   h. Date
   i. Boundary line of the proposed PD District
   j. Existing topographic information with two (2) foot contour intervals
   k. All water courses, 100-year floodplains, mean high water lines and unique natural features
   l. Tree inventory and location
   m. Recreation areas and facilities
   n. Street layout and traffic circulation pattern
   o. Pedestrian and bicycle circulation systems
   p. Residential areas with projected density and planned housing types, and acreage (Include a table)
   q. Commercial, industrial, and office and institutional areas with proposed land uses, estimated square footage, and acreage. (Include a table)
   r. All adjoining land uses and zoning districts.
   s. School sites being reserved and recreational areas to be dedicated for public use, if applicable
   t. Total gross acres
   u. Total acres occupied by all street right-of-way and parking areas
   v. High Density calculations as required in Section 72-43

4. The Master Land Use Plan shall be accompanied by the following:

   a. The names and addresses of each property owner within the proposed PD district.
   b. A legal description of the proposed PD District
   c. Community property owners association proposed covenants.
d. A drainage plan showing locations and acreage of drainage areas, sizes and specifications of drainage structures, and supporting calculations using Soil Conservation Service methods or other methods approved by the County Engineer for both pre-development and post-development conditions.

e. A utility plan showing existing and proposed utility systems, including sanitary sewers, water, electric, gas, television and telephone lines, fire hydrants, street lighting and trash collection areas.

f. A traffic impact analysis

g. A development phasing schedule including the sequence and approximate dates of each phase; and, proposed phasing of construction of public improvements, recreation, and common open space areas.

h. A statement of planning objectives including:

1. Identification of appropriate County Land Use Policies achieved by the proposed PD District;
2. An estimate of total residential population
3. Other necessary information and evidence to support the creation of a PD District in the County.

(N) **Thoroughfare Requirements** - The development shall have direct access, as required in Section 61.3, to and from an existing major or minor arterial as indicated in the Wilmington Area MPO Functional Classification Map. All interior drives shall be designed so as to provide adequate access for emergency service vehicles. (2/16/87) and future connectivity to adjoining undeveloped properties. (8/1/11)

(O) Recognizing the County’s need for adequate housing for the elderly population as stated in the Comprehensive Land Use Plan, the following district regulations shall apply in instances where at least twenty-five percent (25%) of the PD district number of units are included in a Continuing Care Retirement Facility as described and regulated under NCGS 58 Article 64:

a. The maximum height for a continuing care retirement facility building shall be up to 55 feet.

b. The thoroughfare requirements in Section 54.2-2(7) (N) and Section 61.3 may be satisfied if a traffic study supports a finding by the Board of County Commissioners that the roadway providing access for the proposed PD development to and from an existing major or minor arterial will operate at an acceptable level of service (LOS), and will not cause the LOS to drop below Level C. (1/07/08) at build-out. 8/1/11) (9/6/16)

**Section 54.2-3: Procedural Requirements for the Establishment of a PD District**

A PD District shall be processed in three stages: Conceptual Review, Master Land Use Plan; and Final Plan. The concept Plan shall represent the applicant's general sketch and impression of the anticipated pattern of development planned for the PD District. The Master Land Use Plan shall specify the uses of land and layout of landscaping, circulation
and general placement of buildings. The Final Plan shall be the document on which building permits and other applicable County approvals are issued. Each stage shall be processed in the following order:

(1) Conceptual Review:
   (A) This is a scheduled pre-application conference held with the County Planning and Land Use Department to discuss requirements, standards and policies prior to the submission of a formal PD District rezoning petition.
   (B) The general outline of the proposed PD (evidenced schematically by sketch plans or drawings showing the proposed location of the PD district, land uses, major streets, site conditions, land characteristics, available community facilities and utilities, and other applicable information) shall be submitted by the applicant for conceptual review at the pre-application conference.
   (C) After holding the required conference, the County Planning and Land Use Department shall notify the appropriate representatives of various County agencies (such as the County Sheriff, Board of Education, Engineering, Building Safety, Health Department, and County Fire Services to obtain preliminary comments regarding the proposed PD. In addition, the TRC may be asked to review for preliminary comments in lieu of agency notice. Upon receipt of these comments, the County Planning and Land Use Director shall furnish the participants with written comments, including appropriate recommendations to inform and assist the applicant prior to preparing a formal PD district rezoning petition. (8/1/11)

(2) Master Land Use Plan:
   (A) Application for a PD district shall be filed with the County Planning staff. The County Planning staff shall review the Master Land Use Plan and PD district rezoning petition in the nature of an amendment to the County's Official Zoning Map. Such an amendment shall be processed pursuant to the general requirements of Article XI of this Ordinance, including the required community informational meeting outlined in Sec.111-2.1. Upon receipt of all necessary application materials, including the comments of the TRC, the Planning and Land Use Director shall schedule the petition before the County Planning Board. (8/1/11)
   (B) The Board of County Commissioners, following receipt of the Planning Board's recommendation will review the PD district rezoning petition and Master Land Use Plan with respect to its technical sufficiency and its consistency with the Land Use Plan and the Policies for Growth and Development.
   (C) Approval of the Master Land Use Plan as part of the PD district requirements shall not constitute final plan approval, rather it shall be deemed an expression of approval of the rezoning request and the overall design and densities as submitted on the Master Land Use Plan. The Master Land Use Plan shall be filed in the County Planning & Land Use Department.
   (D) Minor changes and revisions to the Master Land Use Plan may be approved administratively by the County Planning and Land Use Director, without additional public hearings, provided such changes to not result in:
1. A change in the use or character of the applicable portion of the PD (8/1/11)
2. A diminishing change of design for, or an increase in the hazards to pedestrian and vehicle or vessel traffic circulation; (8/1/11)
3. A reduction in the originally approved setbacks from roads and/or exterior property lines. (8/1/11)
Any changes, other than minor changes, shall only be made by the County Commissioners, and must follow the same review and public hearing process required for other Zoning Ordinance Amendments.

(3) Final Plan:
(A) Application for Final Plan approval or sections thereof shall be made with the County Planning staff.
(B) The Final Plan shall be in compliance with the Master Plan and no construction, excavation, or clearing shall be commenced or any building permit issued until the Final Plan has been approved and signed by the Planning and Land Use Director.
(C) The Final Plan shall be reviewed by the Planning and Land Use Director for consistency with the approved master plan and by the Technical Review Committee in the nature of subdivision preliminary plat approval. (8/1/11)
(D) The Final Plan shall constitute the equivalent of preliminary Plan approval under the New Hanover County Subdivision Ordinance. The applicant shall not be required to submit a separate subdivision application. Final plats for condominium and subdivision developments, however, shall be submitted to County Planning staff in accordance with the Subdivision Regulation requirements.
Section 54.3: RFMU, Riverfront Mixed Use District  
(3/12/07)

54.3-1: **Purpose** - The Cape Fear River is one of the region’s most valuable natural resources and is the focal point of activity in downtown Wilmington. The Riverfront Mixed Use District is established to support seven main objectives: to enhance and preserve environmentally sensitive areas along the river; to protect public access to the river through the creation of quality public spaces, to preserve cultural and natural resources, to effect quality design and a variety of built forms that result in a pedestrian scale as well as a compelling skyline; to promote and enhance transit options, particularly pedestrian and water-oriented transportation options; to provide an opportunity for intensive development consistent with the urban form; and to encourage a mix of uses that foster a sense of community and create a destination for residents and visitors alike.

The RFMU is an elective district available only to parcels of land fronting the Cape Fear and Northeast Cape Fear Rivers east of Hwy. 421, between the Holmes Bridge and the Memorial Bridge in Unincorporated New Hanover County. A height restriction overlay for the area directly across from the Wilmington Historic District is subject to additional restrictions on building height. In the event of conflict between regulations for riverfront mixed use developments and those in other sections of the Zoning Ordinance, the Riverfront Mixed Use regulations shall supersede unless specifically stated otherwise. (9/6/16)

54.3-2: **Mix of uses**

(1) All RFMU developments must contain uses from at least two of the following categories:

(A) Residential  
(B) Office  
(C) Commercial  
(D) Institutional, quasi-public, public  
(E) Entertainment and lodging

(2) The total floor area of any RFMU development shall constitute no less than five (5) percent of non-residential uses.

(3) Single-story structures shall not exceed twenty-five (25) percent of the gross building footprint of all buildings within any RFMU development.

(4) All buildings greater than thirty-five (35) feet in height must incorporate more than one use.

(5) All buildings with riverfront and right-of-way facing facades shall incorporate non-residential uses on no less than fifty (50) percent of the ground floor. Parking shall not be used to satisfy any part of this requirement.

(6) The requirements for mix of uses may be waived by the Technical Review Committee (TRC) for projects of exceptional design or merit.
54.3-3: Permitted uses

(1) Principal uses: All uses in this list shall be considered permitted uses within the RFMU district. Ground floor non-residential uses should encourage a lively pedestrian experience by offering a diversity of uses which utilize multiple storefronts and engaging public spaces. Uses from the category of “adult establishments” are prohibited. Uses are categorized based on similar impacts and to ensure diversity of uses.

(A) Residential category
   1. Family care homes
   2. Group home supportive
   3. Single family dwelling, attached

(B) Office category
   4. Banking services, without drive-through
   5. Offices, Medical
   6. Offices, Professional

(C) Commercial category
   7. Convenience food store, without gasoline sales
   8. Farmers’ market
   9. Grocery store less than forty thousand (40,000) square feet.
  10. Marina, with or without fueling facilities
  11. Night club (night clubs shall not abut an existing place of worship or be within one thousand-five hundred (1,500) feet of existing residential uses or districts.
  12. The following personal service establishments are permitted:
    a. Beauty salon
    b. Barber shop
    c. Clothing alterations
    d. Laundry, Laundromat services, and drop off dry cleaning only
  13. Photography studio
  14. Recreation facilities: private indoor or outdoor
  15. Restaurant without drive-through windows
  16. Retail sales establishment less than 40,000 square feet
  17. Ship chandler
  18. Spas and health club
(D) Institutional, quasi-public use, or public use category. The following uses shall not be accessed from or face riverfront facades.

a. Adult day care and child day care center  
b. Clubs, lodges and recreation facilities  
c. Government facility, not to include correctional or operational facilities  
d. Nursing and personal care by special use permit  
e. Religious institution  
f. Retirement center and life care community by special use permit  

(E) Entertainment and lodging category.

a. Amphitheater, located within one thousand-three hundred twenty (1,320) feet of a facility that provides public parking with the capacity to accommodate one-hundred (100) percent of required parking  
b. Aquarium, located within one thousand-three hundred twenty (1,320) feet of a facility that provides public parking with the capacity to accommodate one-hundred (100) percent of required parking  
c. Art gallery/studio  
d. Cultural arts center including theaters  
e. Hotels and motels, except that hotels and motels do not satisfy the “non-residential” requirement  
f. Meeting and events centers  
g. Movie theaters  
h. Museum  

(2) Supporting Uses: The uses listed below are considered supporting uses to the required categories. While the following uses are allowed by right, they shall not count towards the minimum required mix of uses. Even though the development may contain one (1) or more of the following uses, it must still include at least two (2) of the five (5) categories (residential, office, commercial, institutional/quasipublic/public, entertainment and lodging) listed above.

(A) Accessory buildings  
(B) Accessory and auxiliary uses  
(C) Commercial parking facility, provided the requirements of 59.9-4(10) below are met  
(D) Helipads, rooftop only  
(E) Public park, playground and associated facilities
54.3-4: **General Regulations** - The prevalence of environmentally sensitive areas located along the riverfront requires that flexible development standards be established to maximize natural resource protection and land development potential.

1. **Riverfront access** - All RFMU developments shall have direct access to navigable waters. A minimum of one (1) pedestrian access shall be provided. Pedestrian access shall be provided in intervals no greater than one (1) access every two hundred (200) linear feet of shoreline.

2. **Lot coverage** - Maximum lot coverage in the RFMU district shall not exceed fifty (50) percent.

3. **Building Base** - Delineation of the building base is required for buildings exceeding building base height (See definitions in 54.3-7).

4. **Maximum Building height** - Building height in the RFMU district shall not exceed one hundred-fifty (150) feet not including up to sixty (60) feet utilized for structured parking. Additional height up to a maximum of thirty (30) feet may be permitted based on compliance with the following performance option:

   - **(A)** Dedication of private land area for public use greater than the required minimum of ten (10) percent. For every five (5) percent of additional permanently designated public space, building height may be increased by fifteen (15) feet.
   - **(B)** Buildings in the height restriction overlay district are subject to a maximum building height of 75 feet.

5. **Building envelope** - All buildings exceeding the maximum base height elevation shall reduce building mass by no less than twenty-five (25) percent of the total mass above the base elevation, as measured from the maximum base height to the overall height of the building, multiplied by the total area of the building footprint using the following equation:

   \[(\text{Proposed Height} - \text{Base Height}) \times (\text{Footprint}) \times (0.25) = \text{Minimum Building Mass Reduction (Above base height)}\]

6. **Building setbacks and separations** - All buildings shall be set back a minimum of sixteen (16) feet from public rights-of-way and private streets. Setback from the river shall be in compliance with the NC Division of Coastal Management buffer rules. All buildings less than fifty (50) feet in height adjacent to single family residentially zoned and developed properties, excluding those separated by public rights-of-way, shall have a minimum setback from adjacent single family residential equal to the height of the building. Buildings over fifty (50) feet in height, excluding those separated by public rights-of-way, shall have a minimum setback from adjacent single family residential of fifty (50) feet.

7. **Underground utilities** - All electric, cable television and telephone utilities, fire alarm conduits, streetlight wiring and other wiring conduits and similar utilities
shall be placed underground by the developer or the appropriate utility company for all new RFMU developments.

(8) Minimum landscaping

(A) Shade trees are required along all streets. Shade trees shall be a minimum caliper of three (3) inches (DBH), shall be located at a minimum fifty (50) feet on center and must be single-stem canopy trees.

(B) Public spaces and common areas shall be planted with a minimum of two (2) single stem canopy trees per every one-thousand (1,000) square feet. Canopy trees shall be a minimum caliper of three (3) inches (DBH). Two (2) canopy trees may be substituted with three (3) understory trees per one-thousand (1,000) square feet of public space or common area where overhead obstructions or other site limitations make canopy trees impractical.

The Technical Review Committee (TRC) may permit alternatives to strict conformance with the required location of landscaping under the following conditions. However, in all cases, RFMU developments shall provide at least the minimum square footage of landscaped area and number of trees required by this Chapter.

1. Preservation of natural stands of trees and existing vegetation. Preservation of natural stands of trees may be substituted for landscaping requirements as long as the total square footage of interior landscaping meets the minimum required.

2. Additional landscaping in key areas. Provision of at least ten (10) percent greater than the minimum landscaping area required in each of the following areas: along the waterfront, at project entrances, in public spaces.

3. Provision of low impact development. Landscaping necessary to achieve low impact development standards as defined in Article X of this Chapter.

(9) Signs - The following sign requirements shall apply to all RFMU developments:

(A) All internal signs in areas designated RFMU shall meet the following requirements.

1. Directional signs - Not exceeding thirty (30) inches in height and not exceeding four (4) square feet in area which direct on-premises vehicular or pedestrian traffic and bearing no other identification or advertising matter shall not be limited in number.

2. On-premises canopy or awning signs –
a. A multi-family or nonresidential principal building may install signs on or hanging beneath canopies, awnings and hanging beneath overhangs or porch roofs provided:

i. There is no projecting sign on the principal building.

ii. The combined total area of signs applied to canopies and awnings shall not exceed twenty (20) percent of the aggregate area of the face of the canopy or awning.

iii. Signs that are attached below a canopy, awning, overhang or porch roof shall not extend beyond the width of such canopy, awning, overhang or porch roof and shall have a clearance of not less than nine (9) feet above the pedestrian walkway and shall not exceed three (3) square feet in area.

3. On-premises window signs -

a. A multi-family or nonresidential principal building may install on-premises window signs provided:

i. The area of such signs shall not exceed an aggregate area equal to ten (10) per cent of the total ground floor glassed window area of the building.

ii. Such signs, if located inside the window, may be neon signs.

iii. Such signs shall not be located above the second floor.

4. Special purpose signs

a. A multi-family or nonresidential principal building may attach one (1) special purpose sign to a facade or window provided such sign shall not be displayed more than twelve (12) times in each calendar year for a maximum total of sixty (60) days per calendar year.

b. A single-family residential premises may erect one (1) on-premises and/or one (1) special purpose sign subject to the following restrictions:

i. Such signs refer only to the name, home occupation, address and/or special purpose of the occupant therein.

ii. Such sign shall not exceed four (4) square feet in area.

iii. Such sign shall be setback a minimum of five (5) feet from any property line.
iv. Such sign shall not be located at a height above six (6) feet.

c. Incidental signs

i. A multi-family or nonresidential principal building may display incidental signs provided:

ii. Such signs are flat mounted against the building, window or door.

iii. Such signs shall not exceed a total area of two (2) square feet.

d. Revolving signs - A revolving sign specifically that of a striped barber pole is allowed only in conjunction with a barber shop.

5. External illumination, if used, shall not be blinking, fluctuating or moving. Light rays shall shine only upon the property within the premises and shall not spill over the property lines in any direction, except by indirect reflection.

6. Any premises or principal building may erect one (1) real estate or construction sign advertising specific property for sale, rent, lease, development or construction, located on the premises, provided:

a. Sale, rent or lease (real estate) signs shall not exceed six (6) square feet in area.

b. Development or construction signs shall not exceed thirty-five (35) square feet in area.

7. Any premises may display one (1) on-premises freestanding sign subject to the following restrictions:

a. Area. Freestanding signs shall not exceed thirty-five (35) square feet in area.

b. Height. No freestanding sign shall exceed ten (10) feet in height.

8. Any principal building may display attached signs subject to the following restrictions:

a. One attached sign per each frontage shall be permitted.

b. Any principal building may display on-premises attached signs provided:
i. Such sign is mounted parallel to the building to which it is attached and projects no more than eighteen (18) inches from that building.

ii. Such signs shall not extend beyond the roofline of the building to which it is attached.

iii. The combined total area of such signs shall not exceed twenty (20) percent of the total area of the wall to which the sign is attached, not to exceed two hundred (200) square feet in total area.

c. Attached signs may be displayed on the side or rear of a building adjacent to an off-street parking area if the off-street parking area is thirty-three (33) feet or more in width. Such signs shall be subject to the same regulations as attached signs on the street side of the building. However, the side or rear of the building adjacent to the off-street parking area shall not be included when calculating the area allowable to attached signs on the street side.

9. Any principal building may display one (1) projecting sign subject to the following restrictions:

a. There is no detached sign on the premises.

b. Such sign may project horizontally a maximum of six (6) feet, but shall be setback at least two (2) feet from the back face of the curb or outer edge of the pavement where there is no curb. Setback distances for projecting signs which front on state roads must be approved by the North Carolina Department of Transportation.

c. Such signs shall be erected at a height of not less than nine (9) feet above the sidewalk or other pedestrian passageway.

d. Such sign shall not exceed beyond the roof line of the building to which it is attached.

e. Such sign shall not exceed fifteen (15) square feet in area.

10. Any premises or principal building may place sandwich board signs on the public sidewalk subject to the following restrictions:

a. Number of signs - Any premises, including those containing multiple businesses, may place only one (1) sandwich board sign per street frontage.

b. Area and height - Any sandwich board sign shall not exceed eight (8) square feet per side in area. In addition, the width of the sign may not exceed two (2) linear feet, with a maximum height of four (4) feet. Within these
specified maximum dimensions, creative shapes that reflect the theme of the business being advertised are encouraged (i.e. ice cream shop may display a sign in the shape of an ice cream cone).

c. Display hours - Sandwich board signs shall be displayed only during operational hours of the business being advertised and shall not be lighted. These signs must be removed each day at the close of business. The hours of business operation shall be indicated on the inside surface of the sign board.

d. Location - Sandwich board signs may be placed on the sidewalk directly in front of the associated use. Along streets with no parallel parking, sandwich board signs shall be placed on the sidewalk within four (4) feet of the curb. Along streets with parallel parking, a two (2) foot step-out zone shall be provided, and sandwich board signs shall be placed on the sidewalk at least two (2) feet from the curb but not more than four (4) feet from the curb. The location of any sandwich board sign shall be at least twenty (20) feet from any intersection and at least five (5) feet from any crosswalk or fire hydrant. No sandwich board sign may be placed where the unobstructed space for the passageway of pedestrians is reduced to less than four (4) feet. Trees, poles, signs, hydrants, trash receptacles, tree grates, etc. are all considered obstructions.

e. Materials, appearance - 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; a "yard sale" or "graffiti" look with hand painted or paint-stenciled letters is not acceptable, however, chalkboard signs shall be permitted. The written message of the sign should be kept to the minimum necessary to communicate the name of a business or a special message of the business.

f. Indemnification - Any person erecting a sandwich board sign shall indemnify and hold harmless New Hanover County and its officers, agents, and employees from any claim arising out of the presence of the sign on County property or public rights-of-way. The person erecting a sandwich board sign shall sign an indemnification agreement, approved by the County Attorney, prior to the issuance of a sign permit. The indemnification agreement shall be accompanied by evidence of insurance covering the liability assumed in this subsection and the agreement.
g. Determination of Location - Questions as to placement of sandwich boards shall be determined by the Planning and Land Use Director or Chief Zoning Official.

11. Freestanding signs, pole signs and outdoor advertising signs shall not be permitted.
12. Project entrance signs shall be integrated into site entry, structural, and landscape features and meet the following standards:
   a. The sign area shall not exceed seventy-five (75) square feet and its vertical dimension shall not exceed four (4) feet.
   b. The maximum height of any entry structure shall not exceed six (6) feet.
   c. The sign and any structures shall be located so as to not obstruct the view of persons entering or leaving the development.
   d. The main and secondary entrances shall be designated on the site plan. Two (2) monument signs are allowed at the main entrance way, one (1) on each side of the road or driveway with a combined total area not to exceed one-hundred-fifty (150) square feet and with a maximum vertical dimension of four (4) feet. Secondary entranceways shall be restricted to one (1) monument sign, not to exceed eighteen (18) square feet in area and with a vertical dimension of four (4) feet. However, if secondary entrance way signs are incorporated within an entry wall or other entry feature, two (2) signs are allowed, one (1) on each side of the access road, not to exceed a combined total surface area of twenty-seven (27) square feet and a vertical dimension of four (4) feet.
   e. The main entrance way sign text is limited to the development name and the name of one (1) tenant. Sign area devoted to a tenant name is limited to twenty-five (25) percent of any sign area. Secondary entrance way text is limited to the development name only.
   f. Internal illumination is prohibited except for kinetic signs in accordance with the following:
      (i) Kinetic signs may be allowed on buildings housing amphitheaters, cultural arts centers including theaters, meeting and event centers, museums, and movie theaters except drive-ins provided that:
(ii) the kinetic sign shall be displayed on only one (1) wall of the building;

(iii) the wall on which the kinetic sign is displayed shall not front any thoroughfare or arterial road;

(iv) the kinetic sign shall not strobe or flash, or utilize graphics, letters, or text;

(v) the area of the kinetic sign shall not exceed one thousand two hundred (1,200) square feet or ten (10) percent of the area of the building facade on which it is installed, whichever is less;

(vi) between the hours of 11:00 p.m. and 7:00 a.m., the kinetic sign color shall be stationary and restricted to one (1) color; and

(vii) the kinetic sign shall be approved by the riverfront mixed use development property owners' association and shall be consistent with the architectural guidelines of the development.

(10) Parking requirements -

(A) Surface parking may not exceed five (5) percent of the total parking area provided or fifty (50) spaces, whichever is less, for each RFMU development. A parking structure is considered part of the building footprint when a common wall is shared between them.

(B) Surface parking shall be located to the side or rear of buildings or in the interior of a block. Surface parking shall not be located on the riverfront side of buildings. Surface parking shall be reserved for non-residential uses including loading areas and emergency vehicle access and must be clearly designated as such.

(C) There is no minimum or maximum parking limit for residential uses.

(D) On-street parking is permitted but shall not be counted toward required parking for commercial uses.

(E) The design of all above-grade parking structures shall be visually compatible with surrounding structures and shall relate to the design context of the area. Exterior walls of parking structures shall be designed with materials, colors, and architectural articulation in a manner that provides a visual compatibility with adjacent buildings and environment. All parking structures shall be visually obscured from the river. Non-residential uses shall be included along first-floor street frontages. Active uses are encouraged on the sidewalk level of parking structures. Ground floor structured parking does not satisfy non-residential use requirements.

(11) General site design - Each of the following components shall be included in RFMU developments. The site plan submitted for review shall include a narrative describing how the project will incorporate each of these components:
(A) Clearly defined common spaces - Plazas, courtyards, riverwalks and other areas are necessary to provide for public gathering and interaction. Amenities such as benches, planters, lighting, fountains, art and landscaping that further the design theme of the project and encourage interaction are required.

(B) View corridors - Views of the Cape Fear River shall not be significantly obstructed by buildings or other structures. All developments shall provide view corridors along streets connecting to the river. Any street that terminates within fifty (50) feet of the riverwalk shall provide a public space, park or access area that is a clearly defined entry point to the required riverwalk.

(C) Multi-modal transportation opportunities - Public boating, walking, bicycling, or water taxi services and the facilities necessary for such uses.

1. Pedestrian accessibility and concentration of development (critical mass) within a compact, walkable area. Pedestrian circulation shall be clearly defined with paving materials and/or landscaping and shall connect all uses.

2. Bicycle and/or pedestrian connectivity to adjacent or nearby developments is required, when feasible.

3. Sidewalks are required on each side of rights-of-way and private streets throughout the development and are to be installed along all building frontages. Sidewalks shall maintain a minimum width of twelve (12) feet. Sidewalk width may be reduced on internal private streets with TRC approval. Sidewalks may be limited to a single side of rights-of-way or private streets or sidewalk width may be reduced when right-of-way or private street abuts streams, ponds, or wetlands or when contextual design constraints dictate, as determined by the TRC.

(D) Integrated design of the project - Projects require special attention to building design because of the intermixing of land uses. Functional integration of residential and commercial uses shall be considered during design of RFMU projects. The following standards are intended to guide development of such projects:

a. Primary building entrances shall be oriented toward public sidewalks along primary street or riverwalk frontages. Development along new or existing public streets should provide inviting facades and through appropriate scale and quality materials should foster a walkable and enjoyable pedestrian environment.

b. Massing and development scale: No visible facade shall be “blank” or without features or detail. For buildings greater than thirty-three (33) feet in width, visible facades shall incorporate periodic transitions no farther
apart than two-thirds (2/3) of the building height in order to create a vertical orientation. This transition may be achieved by utilizing at least two methods including, but not limited to the use of facade offsets, recesses, pilasters or change in materials. For buildings exceeding four (4) stories or fifty (50) feet, whichever is less, facades shall incorporate a visual transition to distinguish the building base from the upper floors of the building. This transition may be achieved by utilizing at least two methods including, but not limited to the use of building facade offsets, cornices, belt courses, moldings or other linear motifs.

c. For buildings greater than fifty (50) feet in width, facades shall be expressed as two (2) or more separate building facades no greater than fifty (50) feet in width utilizing the aforementioned methods. The predominant orientation of fenestration (window arrangement) within the facade shall also be vertical. Horizontal bands or “ribbons” of windows shall not be permitted within the first four (4) stories or fifty (50) feet of building height. At least fifty (50) percent of the ground-level façade shall be constructed of transparent materials or otherwise designed to allow pedestrian view of inside activities.

d. Height relationships: The exterior expression of any building facade must be distinguished at a point not less than thirteen (13) feet, six (6) inches above the ground level at the front facade. This distinction may be accomplished by incorporating features including but not limited to, horizontal architectural members such as molding, belt courses, or a change in materials or fenestration.

e. Screening: All dumpsters, outside storage areas and any ground level mechanical equipment shall be screened. Screening shall be a minimum of six (6) feet in height and shall consist of living and non-living material as specified in Article VIII of this Chapter. Generic chain link fencing shall not be permitted as a screening alternative.

(E) Dwelling unit size - Minimum residential unit size shall be seven hundred and fifty (750) square feet.

(F) Connection to the surrounding community - RFMU projects shall be designed as an integral part of the surrounding community and not as an isolated development. RFMU developments shall not be gated and shall be interconnected to any surrounding developments with pedestrian and vehicular connections. Developments shall include plans for future
pedestrian and vehicular connections to adjacent undeveloped properties.

(G) Phasing - RFMU projects may be phased. Site plan submittals meeting all requirements of this ordinance and other applicable sections of the County Zoning Ordinance shall be considered to be a “phase”. Additional phases shall become part of the existing development. The entire project, including the first phase and all subsequent phases, shall meet all ordinance requirements as a unified development at all times. The Technical Review Committee (TRC) may require all external street interconnections, stormwater systems, utilities and other public improvements to be constructed in the first phase to ensure that the phase will function as a stand-alone mixed use development. The first phase of construction shall commence within twelve (12) months of project approval.

54.3-5: Public space

(1) Purpose - It is intended that RFMU developments incorporate public spaces, including but not limited to: natural wetlands, forested areas, atriums, parks, the riverwalk, internal courtyards, plazas, or other undisturbed or improved spaces.

1. Each RFMU project shall contain a minimum ten (10) percent functional public space, in addition to a riverwalk as defined in 54.3-5(2) of this section. Rights-of-way, other than street sidewalks, may be included within public space calculations only if the right-of-way serves a primarily pedestrian function.

2. Public spaces shall be pedestrian-oriented and shall shape the design and character of the project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. The pedestrian spaces shall include features such as landscaping, gardens, benches, artwork, sculpture and water features to improve their appeal. These spaces shall also provide a pleasant gathering place for transit users. Public space areas shall provide adequate amenities for comfort and convenience such as seating, lighting, directional signage, bicycle racks, drinking fountains, shelters, trash receptacles, or public restrooms.

3. To ensure that public spaces are well used, they shall be visible, easily accessible by the public and barrier free with multiple points of entry from public areas (streets, sidewalks, walkways, the riverwalk, and bike paths). Public space shall be oriented to maximize exposure to the water and scenic views. Streets perpendicular to the river shoreline shall be designed as landscaped corridors that terminate with pedestrian access to
the river. Public spaces may be either natural or recreational. “Natural” public spaces are intended to protect natural resources, protect water quality and provide habitat for wildlife. “Recreational” public spaces are intended to provide active or passive recreation opportunities. Public spaces shall have linkages that reinforce pedestrian movement. Merchandise and eating areas shall be designed to be contiguous with public spaces and pedestrian ways.

4. Plants used in landscaping areas shall be native species, of the highest quality and of sufficient quantity and scale to make a visual impact. Plantings shall be selected and located so that their functional and aesthetic qualities can be maximized. Public space shall provide areas shaded by trees and/or structures. Small-scale storm water treatment shall be integrated into the landscaping wherever possible, including recessed landscaped areas with curb openings or sloped curbs to serve as rain gardens or bio infiltration areas. Restoration of wetland vegetation is encouraged along the riverfront.

5. Sites of historic interest or sites providing an opportunity and context for historical interpretation along the riverfront shall be incorporated into public space areas and appropriately commemorated and marked with interpretive signage.

6. Development in the district shall integrate artwork into public space settings wherever possible. Artwork may consist of free-standing pieces (e.g. sculptures and fountains) or may be integrated with surroundings (e.g. relief sculpture embedded into pavement or wall, mosaics, murals, decorative fixtures, etc.) to create a strong visual interest. Artwork should be context-appropriate and custom-made utilizing local artisans, reinforcing and complementing the character of the riverfront. Public spaces designed to accommodate live performing arts and public gatherings should be integrated into the development whenever feasible.

(2) Riverwalk - Riverfront properties possess the unique opportunity to provide public space adjacent to and along the Cape Fear River corridor. A riverwalk not only provides public access to the river but also accents significant community asset and draws activity to and along the river corridor. To serve the purpose of public access to the riverfront, all RFMU developments shall dedicate the land necessary to provide for the construction of a continuous and contiguous public riverwalk along the river’s edge for a length as defined by the development’s boundaries adjacent to the riverfront.
(A) Easement and access: Public access across the property, between the river’s edge and the public right-of-way, Private Street or structure running parallel with the river’s edge, shall be provided at a minimum width of ten (10) feet. This access shall be granted through an easement or other property interest as approved by the County Attorney. The access shall meet ADA Design Standards.

a. Developments shall provide public access connections to a riverwalk, perpendicular to the shoreline at intervals of no more two-hundred (200) feet. These walkways should be intensively activated with ground level retail activities, landscaping, and be designed with a series of public spaces to accentuate the pedestrian experience. This access shall be granted through an easement or other property interest as approved by the County Attorney. The access shall meet ADA Design Standards.

b. The “river’s edge” shall be defined as the “Normal High Water” (NHW) level measured from the water’s edge to the proposed building elevation closest to and facing the river. “Normal High Water” is established by a field representative from the Division of Coastal Management or by the New Hanover County Local Permit Officer when an application for a CAMA permit has been submitted.

(B) Riverfront facilities shall provide multi-modal transportation opportunities, including public boating, walking, bicycling, and public bus or water taxi uses and the facilities necessary for such uses. Private dock space shall not restrict public access to the riverwalk.

(C) Construction plans for riverwalk shall be approved by the County Manager or designee, in consultation with the County Engineer, and shall be designed to accommodate future connections to adjacent parcels.

(3) Dock space - Private dock space shall not restrict public access to the riverwalk.

54.3-6: **Procedural requirements for the establishment of a RFMU District**

Proposals for a RFMU District shall be processed in three stages: 1) conceptual review, 2) rezoning application/preliminary site plan; and 3) final plan/site plan.

The conceptual plan shall represent the applicant’s general sketch and impression of the anticipated pattern of development planned for the development.

The Rezoning application/Preliminary Site Plan:
Application for an RFMU district shall be filed with the County Planning and Land Use Department. The County Planning and Land Use Department and the Technical Review Committee shall review the Preliminary Site Plan and RFMU district rezoning petition in the nature of an amendment to the County's Official Zoning Map. Such an amendment shall be processed pursuant to the general requirements of Article XI of this Ordinance. Upon receipt of all necessary application materials, including the TRC recommendations, the Planning and Land Use Director shall schedule the petition before the County Planning Board.

The preliminary site plan shall be reviewed by the Technical Review Committee prior to submission of an application for Planning Board agenda and shall contain the following information:

(1) Tract boundaries and total area and location of adjoining land parcels and roadways;
   (A) Existing zoning of the tract and neighboring parcels and proposed tract zoning;
   (B) Proposed use of land, structures and other improvements. For residential uses, this shall include number, height and type of units and site plan outlining area to be occupied by each structure and/or subdivided lot boundaries. For non-residential uses, this shall include approximate square footage and height of each structure, an outline of the area it will occupy and the specific purpose for which it will be used;
   (C) Development schedule including proposed phasing;
   (D) Traffic and Parking Plan to include a statement of impact concerning local traffic near the tract, proposed right-of-way dedication, plans for access to and from the tract, location, width and right-of-way for internal streets and location, arrangement and access provisions for parking areas; A transportation information sheet is required for any development that will generate more than 100 trips during the peak hour, a traffic impact study may also be required. The study shall be prepared in accordance with Standards and Guidelines approved by the County and shall be submitted at least four weeks prior to the first scheduled meeting at the project’s review. (5/02)
   (E) All existing and proposed easements, reservations, required setbacks, rights-of-way, buffering and signage;
   (F) The one hundred (100) year flood plain line;
   (G) Location and sizing of trees required to be protected under Section 67 of the Zoning Ordinance and in the provisions for this district.
   (H) Any additional conditions and requirements, which represent greater restrictions on development and use of the tract which may include federal, state or local ordinances or planning documents.
   (I) Any other information that will facilitate review of the proposed change.
   (J) A description of and reason for any waiver being requested which the TRC is authorized to grant.
(2) The Board of County Commissioners, following receipt of the Planning Board's recommendation will review the RFMU district rezoning petition and Preliminary Site Plan with respect to its technical sufficiency and its consistency with the Land Use Plan and the Policies for Growth and Development.

(A) Approval of the Preliminary Site Plan as part of the RFMU district requirements shall not constitute final plan approval, rather it shall be deemed an expression of approval of the rezoning request and the overall design and densities as submitted on the Preliminary Site Plan. The Preliminary Site Plan shall be filed in the County Planning and Land Use Department.

(B) Minor changes and revisions to the Preliminary Site Plan may be approved administratively by the County Planning and Land Use Director, without additional public hearings, provided such changes do not result in:

1. A change in the use or character of the RFMU
2. A change of design for, or an increase in the hazards to pedestrian and vehicle traffic circulation;
3. A reduction in the originally approved setbacks from roads and/or property lines.

Any changes, other than minor changes, shall only be made by the County Commissioners, and must follow the same review and public hearing process required for other Zoning Ordinance Amendments.

(3) Final Plan:

(A) Application for Final Plan approval or sections thereof shall be made with the County Planning and Land Use Department.

(B) The Final Plan shall be in compliance with the Preliminary Plan and no construction, excavation, or clearing shall be commenced or any building permit issued until the Final Plan has been approved and signed by the Planning and Land Use Director.

(C) The Final Plan shall provide the document on which building permits and other applicable County approvals are issued.

(4) Failure to Proceed in a Timely Manner – If within 24 months from the date of approval of the petition for a riverfront mixed use district, a building permit has not been issued for the subject tract(s), the Planning and Land Use Director shall consider a request for an extension if submitted in writing to the New Hanover County Planning and Land Use Department prior to the expiration. The Planning and Land Use Director may grant a one (1) year extension so long as site conditions have not substantially changed since the original petition was approved. If site conditions have substantially changed, the Board of County Commissioners will consider whether an extension shall be granted during a
regularly scheduled public meeting. The total vesting period for extensions may not exceed five (5) years.

54.3-7: **Additional Definitions**

**Way-finding sign** - A sign of which the message is exclusively limited to guiding the circulation of and providing direction for motorists or pedestrians within the site.

**Building base** - The lower levels of a building that do not exceed four (4) stories or fifty (50) feet, whichever is less, and are distinguished architecturally from the upper floors of the building.

**Fenestration** - The arrangement and design of openings, such as windows, within a building.

**Normal High Water (NHW)** - The ordinary extent of high tide based on site conditions such as presence and location of vegetation, which has its distribution influenced by tidal action, and the location of the apparent high tide line.

**Kinetic sign** - means a sign that depicts motion either illusory or actual.
Section 54.4: Urban Mixed Use Zoning (UMXZ) District
(7/1/2019)

Intent: The UMXZ district is established to meet the following five primary objectives in the areas of New Hanover County in proximity to the City of Wilmington and those intended for urban- or community-scale mixed use development:

1. To encourage the efficient mixed use development pattern envisioned in the comprehensive plan;
2. To result in quality design and a variety of built forms of lasting value that result in a pedestrian scale;
3. To provide a mix of housing options;
4. To promote and enhance transportation options, particularly those that are pedestrian-oriented, while reducing demand for automobile trips; and
5. To encourage a mix of uses to foster a sense of community.

The district regulations include design elements intended to enhance the urban form, increase neighborhood safety, and add flexibility for small lots. Integrated mix of uses on development sites and within individual buildings is encouraged. UMXZ zoning is intended to promote mixed-use developments on sites large enough to create a mix of uses within the existing suburban environment. Typically, these developments will include creative development and redevelopment solutions.

Dimensional Requirements:

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<th>Size Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum District Size</td>
</tr>
<tr>
<td>Setbacks</td>
</tr>
</tbody>
</table>
| Minimum from single-family residential zoning districts | 35 ft. for buildings ≤ 35 ft. in height  
45 ft. for buildings > 35 ft. in height |
| Maximum from any street            | 10 ft.                         |
| (front setbacks are not required along alleyways; TRC may waive strict adherence to requirement where an existing easement or significant natural feature exists) |
| Height (maximum)                   |
| Along arterial streets             | 4 stories or 45 ft. by-right  
75 ft. with Additional Height Allowance special use permit |
| Along residential & collector streets | 2 stories or 35 ft.          |
| Along arterial & collector streets  | 5 stories or 55 ft. if structured parking is provided within project |
| Density (maximum dwelling units/acre) |
| Single Family Residential          | 15                             |
| Multi-Family Residential            | 25                             |
| Vertically integrated mixed-use building | 36                             |
**District Specific Requirements:**

(1) **Review Process:** Any UMXZ development shall be processed as a conditional district rezoning subject to a conceptual site plan review. In addition, a specific site plan shall be reviewed and approved by the Technical Review Committee in accordance with all applicable standards.

(A) The following shall be included in the conceptual site plan:

i. Boundary survey and vicinity map showing total acreage, general location in relation to major streets, railroads, and/or waterways, the date and a north arrow on top.

ii. Conceptual plan showing the location of all major land uses and proposed maximum square footage for each use—may be a bubble format showing the general location and relative arrangement of different land uses.

iii. Maximum building heights.

iv. All external access points and conceptual internal traffic circulation plan.

v. Proposed buffer and landscaping areas.

(B) Minor modifications to approved conceptual site plans that have no material effect on the character of the approved development and comply with all applicable standards of this Ordinance may be approved by the Planning Director. Any other changes to approved conceptual site plans must be authorized by the Board of Commissioners. Changes in the following constitute minor modifications that may be approved by the Planning Director:

i. Modifications in building placement, provided the placement does not decrease the setbacks agreed to during the conditional rezoning process by more than 10 percent;

ii. Increases to building size and height not to exceed 10 percent;

iii. Increase to the impervious surfaces not to exceed 10 percent;

iv. Modifications to structure floor plans;

v. Modifications to the driveway locations as required by the North Carolina Department of Transportation; and

vi. Modifications to the proportion of use type not to exceed 10 percent.

(2) **Mix of Uses:** All UMXZ projects shall include a mix of both residential and nonresidential uses.

(3) **Utility and Equipment Screening:**

(A) HVAC equipment, air conditioning window units, and other electrical equipment, and fire escapes shall not be located on façades with street frontage. All such equipment shall be placed in the interior yards or inset into the roof pitch, or behind a parapet wall in the case of a flat roof, of the building and screened from the right-of-way.
(B) Through-wall mechanical units are permitted on any façade if they are incorporated into
the design of the building, flush with the façade on which they are located, concealed by
a vent cover, and have an internal drip system for condensation.

(C) Utility meters, transformers, and fixed trash disposal receptacles that cannot be located
out of sight shall be screened from the public right-of-way by plantings or opaque
fencing.

(D) The TRC may approve alterations to these standards in cases where they cannot be met
due to design considerations of the structure and the intent of visual minimization of
the feature is otherwise addressed.

(4) Site Lighting: All site lighting shall be located, angled, shielded, and/or limited in intensity so
as to cast no direct light upon adjacent properties, shall minimize off-site backlighting glare,
and up-lighting. Light posts shall be no taller than 12 feet.

(5) Parking and Driveway Requirements:

(A) Parking shall be provided in accordance with the requirements of Article VIII of this
ordinance, shared parking may be allowed upon submittal of a parking study showing
how parking as provided will be sufficient for permitted uses.

(B) Surface parking shall be located to the side or rear of buildings or in the interior of a
block and shall be prohibited in front of buildings. Surface parking shall not be located
along rights-of-way, except for alleys. The TRC may approve alterations to this standard
in cases where locating parking to the side or rear is limited by existing site features,
such as trees, or when this requirement is not consistent with the existing frontage
pattern along the roadway.

(C) Surface parking lots visible from the public right-of-way shall be screened by permanent
walls, shrubbery, or hedges at least 3 feet in height. If hedges or shrubbery are used,
they shall be at 3 feet in height at the time of planting and shall be maintained at 3-5 ft.
in height at all times.

(D) Parking shall be accessed via alleyways wherever possible.

(E) The design of all above-grade parking structures shall relate to the context of the area.
Exterior walls of parking structures shall be designed with materials, colors, and
architectural articulation in a manner that provides a visual compatibility with adjacent
buildings and environment.

(F) Pervious pavement materials, vegetated bio-infiltration parking lot islands, or infiltration
systems shall be used to minimize pollutant run-off from surface parking areas to the
extent that soil permeability, depth to groundwater, or site constraints allow.

(6) General Site Design: Each of the following components shall be included in UMXZ
developments.

(A) Multi-modal Transportation Opportunities: Public transit, walking, bicycling, and/or
water-oriented transit and the facilities necessary for such uses.

   i. Pedestrian circulation shall be clearly defined with paving, materials, and/or
      landscaping and shall connect all uses. Sidewalks and crosswalks shall be provided
      within new developments as necessary.
ii. Bicycle and/or pedestrian connectivity to adjacent developments or existing or funded bicycle and pedestrian facilities.

iii. Where no sidewalks currently exist, sidewalks shall be installed within the right-of-way between the property line and the back of the curb. Sidewalk width shall be a minimum of 12 feet along arterial streets and 8 feet along residential/collector streets and may be reduced on internal private streets with TRC approval when context design constraints dictate or when project intensity and/or density indicate that 8 feet sidewalks will be sufficient to accommodate pedestrian traffic.

iv. Sidewalks may be limited to a single side of rights-of-way or private streets or sidewalk width may be reduced when right-of-way or private street abut streams, ponds, or wetlands or when contextual design constraints dictate, as determined by the TRC.

v. An internal grid street pattern is required. Block faces within the grid pattern shall not exceed 400 ft. in length. The grid pattern may be supplemented with alleys. The TRC may waive strict adherence to the grid pattern when sites are constrained by topography, including wetlands, ponds, or other natural features, and where connections to arterial streets and connections and relationships to adjacent sites require flexibility.

(B) Street Trees: Street tree plantings in below-grade planters or planting strips shall be included at the rate of 1 tree per 30 feet of frontage in all private rights-of-way and in public rights-of-way upon approval by NCDOT. The TRC may waive strict adherence to this requirement if an alley is utilized along all or portions of the street frontage.

(C) Buffers and Streetyards: All development within the UMXZ district may be exempted from required buffers and streetyard requirements, as approved by the Technical Review Committee when contextual design constraints dictate or when other design and/or landscaping features of the development serve to meet the needs of buffering and/or streetyard requirements. A minimum buffer of at least 20 feet in width is required adjacent to single-family residential zoning districts.

(D) Trash Containment Screening: All developments with the UMXZ are subject to the following screening requirements.

i. Trash containment areas shall be located within a building where possible.

ii. If trash containment, including areas for holding recycling, cannot be accommodated within a building, it shall be placed on the rear or side of the building and shall be completely enclosed and screened from view of public rights-of-way with an opaque fence or wall and/or plant materials, as approved by the Technical Review Committee. The enclosure shall be at least 1 foot taller than the highest point of the trash receptacle. Chain link and exposed concrete blocks are prohibited.

(E) Fences and Walls: Open wire fencing, including chain link, hurricane fencing, and barbed wire, is prohibited. Within front yards, fence heights may not exceed 4 feet.

(7) Building Design: All new construction in the UMXZ district shall comply with the following design standards, where applicable.
(A) Building Entrances: Primary entrances should be clearly distinctive from other entrances. Primary building entrances shall be oriented toward sidewalks along primary street frontages.

(B) Massing and Scale: Large expanses of flat, unadorned walls are prohibited. Façades shall incorporate architectural details, particularly at the pedestrian level. Building façades along rights-of-way shall incorporate periodic transitions across the façade. Building façades exceeding 30 ft. in width along rights-of-way shall be divided into distinct areas utilizing methods including, but not limited to, façade offsets, pilasters, change in materials, or fenestration (window arrangement). Transitions shall be no further apart than 2/3 of the height of the façade.

(C) Street-Level Façades: New buildings shall front onto sidewalks to reinforce pedestrian activity along streets and pedestrian ways. Exterior burglar bars, fixed “riot shutters,” or similar security devices shall not be visible from the public right-of-way.

(D) Exterior Building Materials: Exterior building materials for all new nonresidential or multifamily structures shall be of quality finish materials. Structural metal panels or unparged or non-architectural, non-decorative concrete block shall be prohibited on façades visible from the public right-of-way.

Section 55: Overlay Districts

Section 55.1: COD Conservation Overlay District

55.1-1: Purpose - The purpose of the Conservation Overlay District (COD) for conservation resources is to protect important environmental and cultural resources within the County. Protection of these resources is necessary to maintain the County's diverse and ecologically important natural systems; to preserve the County's estuarine systems important for finfishing and shellfishing; to provide open space; and to retain the County's archaeological and historical heritage. These COD's shall be in addition to any other zoning districts where applied so that any parcel of land lying in a COD may also lie in one or more of the zoning districts provided for by this Ordinance. The development of all uses permitted by right or by special use permit in the underlying district, if any, shall be subject to the requirements of both the COD and the underlying district, if any. In the event that the COD requirements conflict with the underlying district requirements, the requirements of the COD shall take precedence. If requirements for a particular item are not specified in the COD but are specified by the underlying district, then the requirements of the underlying district shall be followed.

55.1-2: Applicability - The development and improvement of property, including the division of land, shall be subject to these performance controls if the parcel of record is located wholly or partially within a COD and if conservation resources, as specified in Section 55.1-3, are associated with the parcel on record as of December 1, 1984, the effective date of this ordinance. However, the following uses on lots of record as of December 1, 1984 shall be exempted from these controls: (8/4/08)
(1) The development of one single family home detached structure, one residential duplex, or the location of two or fewer mobile homes on a parcel or lot of record as of December 1, 1984. (8/4/08)

(2) Commercial, industrial, office or institutional development on lots of record as of December 1, 1984 and involving a land disturbance of less than 1 (one) acre in area. (8/4/08)

(3) The development or division of a parcel of record as of December 1, 1984 that meets both of the following conditions: (8/4/08)

(A) No part of the development or division shall be located within a distance equal to or less than the setback distance (specified in Section 55.1-5) of any conservation resource or space existing on the parcel or on a contiguous parcel of record. (8/4/08)

(B) No part of the development or division shall be located on any portion of the parcel that is part of the upper drainage basin for any conservation resource or space on the parcel or within the specified setback on a contiguous parcel of record. (8/4/08)

55.1-3: Conservation Resources - If a parcel on record as of December 1, 1984, the effective date of this ordinance, is associated with any one of the conservation resources having the minimum distinct areas listed below then the parcel shall be subject to the following performance controls. Official maps of and information concerning these resources shall be maintained by and shall be available for review at the County Planning and Land Use Department. These maps shall be updated as needed by the County Planning and Land Use Department and shall serve as the official source by which to determine if a parcel is associated with Conservation Resources. A parcel is considered to be associated with a conservation resource if either the resource is contained partially or wholly on the parcel or if the resource is located next to a parcel such that the resource setback specified in Section 55.1-5 extends into the parcel.

<table>
<thead>
<tr>
<th>(1) Ecological Resources</th>
<th>Minimum distinct area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Swamp forest</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>2. Pocosin</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>3. Savannah</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>4. Natural ponds</td>
<td>0.1 acre</td>
</tr>
<tr>
<td>5. Freshwater marsh</td>
<td>0.1 acre</td>
</tr>
<tr>
<td>6. Brackish marsh</td>
<td>0.1 acre</td>
</tr>
<tr>
<td>7. Primary nursery areas</td>
<td>0.1 acre</td>
</tr>
<tr>
<td>8. Barrier island-beach complex</td>
<td>0.1 acre</td>
</tr>
<tr>
<td>(including dunes)</td>
<td></td>
</tr>
<tr>
<td>9. Maritime shrub thickets</td>
<td>1.0 acre</td>
</tr>
<tr>
<td>10. Salt Marsh</td>
<td>0.1 acre</td>
</tr>
<tr>
<td>11. Animal and Plant Natural Areas of Special Significance</td>
<td>no limit</td>
</tr>
</tbody>
</table>

(2) Archeological/Historical
55.1-4: General Performance Controls for Conservation Space - The following general performance controls for conservation space apply to all uses within a COD that are subject to controls as determined by Section 55.1-2 and Section 55.1-3.

(1) Required amounts of Conservation Space

(A) Conservation space is defined as that portion of the conservation resource that shall be preserved, as determined by this Section.

(B) Conservation space may not be reserved provided the development or subdivision of the parcel meets the condition specified in Section 55.1-2(3)(a).

If the development or subdivision does not meet the condition specified in Section 55.1-2(3)(b), then, the development or subdivision shall meet applicable drainage and setback regulations specified in Sections 55.1-4(5) and 55.1-5.

(C) Conservation space shall not be required to be reserved for the following resources unless the total acreage of minimum distinct areas on the parcel of record exceeds the following minimum:

<table>
<thead>
<tr>
<th>Resource</th>
<th>Total Aggregate Minimum Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Swamp Forest</td>
<td>5 acres</td>
</tr>
<tr>
<td>Pocosin</td>
<td>5 acres</td>
</tr>
<tr>
<td>Savanah</td>
<td>5 acres</td>
</tr>
</tbody>
</table>

**Step One:** List in column 2 the acreage of land occupied by each conservation resource named in column 1. If part of the parcel is occupied by more than one resource, list the acreage occupied only by the resource with the highest ranking. Rankings are listed in column 1 in parenthesis next to the resource name.

**Step Two:** Multiply each of the listed acreage in column 2 by factors listed in column 3. Place each answer in column 4.

**Step Three:** Add the acreage in column 4 to determine total minimum conservation space required.

**Step Four:** Subtract the total minimum conservation space from the total gross parcel to determine the maximum amount of developable land.

The total amount of conservation space that shall be reserved shall be equal to or exceed the total minimum conservation space calculated in step three. The total minimum conservation space shall be allocated to and reserved for...
conservation resource areas in acreage equal to or exceeding the minimum acreage calculated for the resources in column 4.

Conservation space shall be reserved in contiguous blocks or in close proximity to the greatest extent possible in order to prevent the scattering of such space and to increase effectiveness in their management.
## Work Table for Determining Required Conservation Space Developable Land

<table>
<thead>
<tr>
<th>Conservation Resource (Importance Value)</th>
<th>Acreage of Resource on Parcel (times)</th>
<th>Conservation Space Factor (equals)</th>
<th>Minimum Conservation Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Swamp Forest (Minimum 5 acres) (5)</td>
<td></td>
<td>.5</td>
<td></td>
</tr>
<tr>
<td>Pocosin (Minimum 5 acres) (5)</td>
<td></td>
<td>.5</td>
<td></td>
</tr>
<tr>
<td>Savannah (Minimum 5 acre) (3)</td>
<td></td>
<td>.5</td>
<td></td>
</tr>
<tr>
<td>Natural Pond (8)</td>
<td></td>
<td>1.0</td>
<td></td>
</tr>
<tr>
<td>Fresh Marsh (Minimum one acre) (6)</td>
<td></td>
<td>.8</td>
<td></td>
</tr>
<tr>
<td>Brackish Marsh (9)</td>
<td></td>
<td>1.0</td>
<td></td>
</tr>
<tr>
<td>Primary Nursery Area (13)</td>
<td></td>
<td>1.0</td>
<td></td>
</tr>
<tr>
<td>Barrier Island -Beach Complex (11)</td>
<td></td>
<td>.9</td>
<td></td>
</tr>
<tr>
<td>Maritime Shrub Thickets (10)</td>
<td></td>
<td>.7</td>
<td></td>
</tr>
<tr>
<td>Salt Marsh (12)</td>
<td></td>
<td>1.0</td>
<td></td>
</tr>
<tr>
<td>Important Historical/ Archeological Site (7)</td>
<td></td>
<td>.9</td>
<td></td>
</tr>
<tr>
<td>Animal &amp; Plant Areas of Special Significance (10)</td>
<td></td>
<td>.9</td>
<td></td>
</tr>
<tr>
<td>Cemeteries (13)</td>
<td></td>
<td>1.0</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL MINIMUM CONSERVATION SPACE_______________________

TOTAL PARCEL ACREAGE____________________________________

MINUS TOTAL MINIMUM CONSERVATION SPACE__________________

EQUALS MAXIMUM DEVELOPABLE LAND _________________________
(2) Transfer of Conservation Space Requirements Between Resource Conservation Areas

In order to provide flexibility in site design, the minimum acreage of conservation space required in column 4 for any one conservation resource area may be reduced by any desired amount provided, however, that the minimum conservation space required for a different conservation resource area with an equal or higher ranking is increased by an equal or higher amount. For instance, assume that a parcel within a COD has ten acres of swamp forest and fifteen acres of fresh marsh. According to the worktable, swamp forest has a conservation factor of .5 and fresh marsh as a conservation of .8. Therefore, at least 5 acres of swamp forest must be reserved as conservation space (10 acres x .5 = 5), and at least twelve acres of fresh marsh must be reserved (15 acres x .8 = 12.0 acres). If the developer, however, wishes to develop seven acres of swamp forest, he may transfer two acres of the conservation space requirement for swamp forest to the fresh marsh because fresh marsh has a higher importance value (6) than does swamp forest (5). As a result of the transfer, therefore, all fourteen acres of the fresh marsh would be required to be preserved as conservation space while only three acres of swamp forest would be required to be preserved.

(3) Improvements - Conservation space shall not be cleared of vegetation, shall not have its natural drainage system significantly altered, and shall not be developed in any manner that would negatively impact the conservation resource, with the following exceptions:

(A) Improvements that would either protect or enhance the enjoyment of the conservation resource. Such measures not causing significant impact include, but are not limited to, walkways, self-guided trails, protective fences, docks and boat ramps.

(B) Access to other parts of the parcel. If a part of the parcel may be developed but is inaccessible due to the existence of a conservation resource area, a road and/or utilities may be constructed through the conservation resource area. The road and/or utilities, however, shall be designed to the greatest extent practical to minimize impact to the conservation resource.

(C) Access to the waterfront. If the entire waterfront along a parcel is inaccessible due to the existence of required conservation space, a boat ramp, dock, or pier may be built for boating facilities in the conservation space, subject to relevant State and Federal permits. The facilities, however, shall be designed to the greatest extent practical to minimize impact to the conservation resource.
(4) Methods of Conservation space preservation

(A) Conservation space may be preserved by any of the following means:

1. Dedication of the conservation space or of a conservation easement in perpetuity to and acceptance by the County for use as parks, recreation areas, or other suitable public purposes, or

2. Dedication for suitable public purpose of the conservation space or of a conservation easement in perpetuity to and acceptance by State or Federal agency or by a private, non-profit charitable organization qualified to accept such dedications in accordance with the Federal Internal Revenue Code.

3. The owner of the parcel on record may retain sole ownership of the conservation space provided the conservation space has not been used in calculating residential density. The conservation space shall not be subdivided. (7/8/02)

4. The conservation space may become the property of a homeowner's association under the following conditions:

   a. Such conservation space shall remain undivided and no lot or unit owner or any other person shall bring any action for partition or division of any part thereof except as provided in Chapter 47A (Unit Ownership Act) of the General Statutes. Each lot or unit owner's undivided interest shall be preserved through covenants running with the land. Title to such areas shall be encumbered for the perpetual benefit of the public generally or the private properties in the development, and all future use shall be consistent with the conservation space requirements.

   b. All lots or units within the development shall have direct access to all conservation space as provided, by means of dedicated streets or walkways within the development or by the fact of physical contiguity to other public land or lands in common ownership of all residents. The developer shall not place age, race, creed, sex or economic restrictions (other than maintenance assessments) upon lot or unit owners for the use of said conservation space. Land which is restricted in any way so as to be for the use, benefit or enjoyment of a select group within the development shall not qualify as conservation space. (7/8/02)

   i. The Homeowner's Association or the non-profit organization shall be established before any lots are sold;
ii. Membership shall be mandatory for each lot buyer, and any successive buyer;

iii. The association shall provide for liability insurance, any taxes and the maintenance of all grounds and facilities;

iv. Any sums levied by the association that remain unpaid shall become a lien upon the lot owner’s property.

(5) Design Storm - Stormwater runoff for the entire parcel will be managed by structures appropriately sized such that the peak rate of discharge from the site after completion of development for any storm up to and including the specified design storm, shall not exceed the peak rate of discharge from the site in its previous natural condition for the specified design storm. The design storm is specified as occurring once every 10 years and lasting for 24 hours. Industrial, commercial, office or institutional development on a parcel one acre or less in size and with a maximum impervious to gross site area ratio of less than .2 shall be exempt from this control. Discharge of run-off from impervious surfaces for the entire parcel directly into natural water bodies shall not be allowed. Runoff shall be routed along vegetated swales, through filter media of vegetation, gravel, sand, or other media, or to detention ponds for purposes of increasing percolation, settling and filtering out of non-point pollutants and decreasing discharge velocity.

(6) Buffer strip - Buffer strip, if required in accordance with Section 62, shall not be extended through conservation space areas. (5/6/85)

(7) Historical and archaeological sites:

(A) If a developer wishes to develop an historical or archaeological site, he shall either

1. Provide for a thorough site investigation by a professional historian or archaeologist, as appropriate, who shall prepare a written report with the following information:

   a. Description of site
   b. Relevant historical documentation/back-ground research
   c. Research design
   d. Field studies as actually implemented including any deviation from the design and the reason for the deviation
   e. All field observations
   f. Analyses and results
   g. Information on the location of original data in the form of field notes, photographs, and other materials
h. Proof that adequate creation of artifacts and records to ensure their preservation and access for further study will be provided
i. Recommendation for further study and preservation of the site, given anticipated development
j. Evaluation of the potential of the site for inclusion in the National Register of Historic Places. If the site is evaluated to have historical or archaeological significance and is eligible for the National Register, every reasonable effort shall be made in the development to preserve it; or

2. Give access rights for investigating the site and acquisition rights to artifacts to the Planning and Land Use Department or its designated agent for a period of at least 60 days between issuance of the building permit and any development of the property that would impact the site.

(8) If a developer wishes to develop a site with abandoned cemeteries, or an abandoned cemetery is discovered during the course of construction, he shall, provide for the delineation of said cemetery by a qualified expert, subject to approval by the County.

55.1-5 **Additional Performance Controls** - In addition to the general performance controls specified in Section 55.1-4, additional controls shall be required to protect certain conservation resources in certain zoning districts. The Table of Additional Controls lists for each resource and district the reference number of the group of additional controls that shall be required. If the parcel being developed is associated with two or more conservation resources with conflicting performance controls, then the most restrictive controls shall apply. However, improvements as specified in Section 55.1-4(3) may be permitted within the conservation space setbacks. Additionally, decks may be allowed to encroach into the conservation space setback up to six (6) feet provided they are uncovered and constructed so that the floorboards are spaced to allow water to flow through directly to the ground. The ground below the deck shall be either left undisturbed or planted with ground cover or other vegetation. (4/6/92)
Groups of Additional Performance Control by Reference Number

<table>
<thead>
<tr>
<th>Conservation Resource</th>
<th>Residential</th>
<th>Non-Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Swamp Forest (Min 5 acres)</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Pocosin (Minimum 5 acres)</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Savannah (Min 5 acres)</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Natural Pond</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Fresh Marsh (Min 1 acre)</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Brackish Marsh</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Primary Nursery Area</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Barrier Island-Beach Complex</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Maritime Shrub Thickets</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Salt Marsh</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Animal and Plant (Natural) Areas of Special Significance</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

**GROUP 1**

(A) **Conservation Space Setbacks** - All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 100 feet.

(B) **Retention of Runoff** - In addition to designing the site to control stormwater from a 10-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first one inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

**GROUP 2**

(A) **Conservation Space Setbacks** - All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 75 feet.

(B) **Retention of Runoff** - In addition to designing the site to control stormwater from a 10-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first .75 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified
amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

GROUP 3

(A) Conservation Space Setbacks - All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 50 feet.

(B) Retention of Runoff - In addition to designing the site to control stormwater from a 10-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first .5 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

GROUP 4

(A) Conservation Space Setbacks - All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least 25 feet.

(B) Retention of Runoff - In addition to designing the site to control stormwater from a 10-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first .25 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the County Engineering Department.

55.1-6: Vegetated Buffer Controls for Conservation (1/20/04)

(1) Purpose and Intent. The establishment of a buffer zone is based upon the stated goals in Policies 3.10 and 3.11 of the 1999 Wilmington-New Hanover County Comprehensive Plan. The buffer zones are intended to promote the comprehensive plan goals of high water quality in the creeks and sounds, to protect the public health, and to ensure the protection of the natural resources of New Hanover County.

A properly vegetated buffer is essential to filter and biologically process nutrient rich runoff, animal wastes, and sediment before it enters coastal creeks, canals, and rivers. Buffers also function to moderate water temperatures, maintain the
desired dissolved oxygen levels in the water, and stabilize the soils immediately adjoining the stream. In urban environments, the function of a buffer is especially critical to the balance of the plant and animal life in fresh and saltwater creeks. Buffers are most effective when they contain native and naturalized plants appropriate in size, adaptability (salt tolerance, wind tolerance, etc.) and hardiness for the area. Plants requiring intensive or routine maintenance should be avoided in buffer areas.

(2) **Applicability.** The development and improvement of property, including the subdivision of land, shall be subject to these performance controls if the parcel of record is located wholly or partially within a COD and if the following conservation resources: salt marsh, brackish marsh, freshwater marsh, and/or primary nursery area are associated with the parcel of record as of the date of the adoption of this section.

(3) **Standards.**

(A) Buffers shall extend thirty-five 35 feet measured horizontally from the edge of the conservation resource and on a line perpendicular to and landward of the conversation resource.

(B) The plant material in the buffer zone must be either retained in a natural, minimally disturbed condition, or properly managed in accordance with the management standards presented in subsection 55.1-6(3)(E). In cases where vegetation does not exist within the buffer, the County shall require restoration efforts which include, but are not limited to, replanting of the buffer zone with plant species as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants".

(C) Development activities within the buffer are limited to water dependent structures, except as otherwise provided in section 55.1-6(3) (D), (E), & (F) and section 55.1-4(3). Examples of water dependent structures include docks, piers, boat ramps, shoreline stabilization, navigation markers and access channels. In order to maintain the functional value of the buffer, excavation, grading, filing, or ditching is not permitted except as otherwise provided herein.

(D) Passive public recreational facilities such as pervious trails and pathways, where owned by public entities or homeowners associations, may be permitted within the buffer.

(E) In order to achieve the County goals to preserve, protect and restore water quality and natural resources, the buffer zone shall be vegetated and left in a natural, undisturbed condition, or managed in accordance with the intent of these goals. Management activities compatible with the intent of these goals include, but are not limited to the following:
1. Shoreline access paths - Pathways which provide access to the shoreline are permissible provided they are a maximum average of six (6) feet in width and follow a path that minimizes erosion within the buffer zone. Pathways may be vegetated with grasses and mowed, or may be surfaces such as crushed stone, shell, or mulch. Elevated wooden walkways and stairs up to six (6) feet in width may also be used, as long as there is spacing between boards and elevation of the walkway to provide for light penetration and rain water to drip through to allow for continued vegetation growth.

2. View corridor - Selective tree removal, thinning, and pruning of natural vegetation within the buffer zone will be allowed to provide for site lines and vistas of the shoreline. Minimal alteration of the natural vegetation is preferred.

3. Safety and welfare - Selective tree removal, thinning, and pruning of natural vegetation within the buffer zone will be allowed at the discretion of the landowner for safety and welfare concerns (e.g. removal of damaged tree in close proximity to a dwelling).

4. Shoreline erosion control - For necessary shoreline erosion control projects, trees and woody vegetation may be removed and the erosion control measure employed in a manner which is consistent with the purpose and intent of this section. Areas cleared for erosion control measures may be required to be re-vegetated with plant species as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants".

5. Habitat and species management - Management of natural vegetation within the buffer zone to enhance wildlife habitat, and control nuisance and non-native species may be allowed.

(F) Buffers may be encroached by public roads, bridges, and utilities where no practical alternative exists to avoid encroachment. These structures should be designed consistent with the purpose and intent of this section.

(4) Definitions - For the purposes of this section, the following words shall mean:

Vegetated Buffer - An existing natural area, or an area planted as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants", set forth in the County's Standards for Tree and Plant Materials for Landscaping, which preserves, protects, and restores water quality and estuarine resources. These buffers are an effort to provide the following functions: filter suspended solids, nutrients, bacteria, and other pollutants before entering surface waters; provide soil stabilization; provide shading to assist in temperature regulation of estuarine waters; provide wildlife habitat and aesthetic beauty.
Section 55.2: CUD Conditional Use District  
(1/2/90)

55.2-1: Purpose - The Conditional Use District procedure is established to address situations where a particular land use would be consistent with the New Hanover County Land Use Plan and the objectives of this ordinance but none of the general zoning district classifications which would allow that use is acceptable.

This procedure is intended primarily for use with transitions between zoning districts of very dissimilar character (e.g. R-15 and B-2) where a particular use or uses, with restrictive conditions to safeguard adjacent land uses, can create a more orderly transition benefiting all affected parties and the community-at-large. It is not intended as a routine substitute for the general rezoning procedure, or for frequent use, because creating a large number of such specialized districts can lead to excessive administrative complexity and great difficulty in maintaining consistent and predictable land use policies.

This procedure is intended only for voluntary proposals submitted in the names of the owners of all property included in the petition/application.

This procedure is intended only for firm development proposals, and shall not be used for tentative projects without definitive plans.

55.2-2: Uses and Development Requirements

(1) Only uses allowed by right or by special Use Permit in the corresponding General Use District are eligible for Conditional Use District consideration and any such use within a Conditional Use District shall, as a minimum requirement, satisfy all the regulations of the corresponding General Use District.

(2) Within a Conditional Use District, no use is allowed except by Special Use Permit. The Permit may specify additional conditions and requirements which represent greater restrictions on development and use of the tract than the corresponding General Use District regulations, or other limitations on land which may be regulated by state law or local ordinance. Such conditions and requirements shall not specify ownership status, race, religion, character or other exclusionary characteristic of occupant, shall be objective, specific and detailed to the extent necessary to accomplish their purpose, and shall relate rationally to making the Permit compatible with the New Hanover county Land Use Plan, the requirements for a Special Use Permit and other pertinent requirements of the Zoning Ordinance, and to securing the public health, safety, morals, and welfare.

55.2-3: Petition/Application

(1) Who May Submit - Conditional Use District petition / applications may be submitted only by all owners of all real property included in the petition / application.
(2) **Content** - Each Conditional Use District petition/application shall include a complete Special Use Permit application satisfying the requirements of Article VII, "Provisions for Uses Allowed as Special Uses" and a rezoning petition containing the following general and site plan information for the tract to be rezoned.

(A) Tract boundaries and total area and location of adjoining land parcels and roadways;
(B) Existing zoning of the tract and neighboring parcels and proposed tract zoning;
(C) Proposed use of land, structures and other improvements. For residential uses, this shall include number, height and type of units and site plan outlining area to be occupied by each structure and/or subdivided lot boundaries. For non-residential uses, this shall include approximate square footage and height of each structure, an outline of the area it will occupy and the specific purpose for which it will be used;
(D) Development schedule including proposed phasing;
(E) Traffic and Parking Plan to include a statement of impact concerning local traffic near the tract, proposed right-of-way dedication, plans for access to and from the tract, location, width and right-of-way for internal streets and location, arrangement and access provisions for parking areas; A transportation information sheet is required for any development that will generate more than 100 trips during the peak hour, a traffic impact study may also be required. The study shall be prepared in accordance with Standards and Guidelines approved by the County and shall be submitted at least four weeks prior to the first scheduled meeting of the project’s review. (5/02)
(F) All existing and proposed easements, reservations, required setbacks, rights-of-way, buffering and signage;
(G) The one hundred (100) year flood plain line;
(H) Location and sizing of trees required to be protected under Section 62 of the Zoning Ordinance.
(I) Any additional conditions and requirements, which represent greater restrictions on development and use of the tract than the corresponding General Use District regulations, which are the minimum requirements in the Conditional Use District, or other limitations on land which may be regulated by state law or local ordinance.
(J) Any other information that will facilitate review of the proposed change.

(3) **Submittal Procedure** - Follow the provisions of Section 111-3 of the Zoning Ordinance.
55.2-4: Approval Process

(1) Overview

(A) In all Conditional Use District proceedings, only testimony and other evidence pertinent to the specific use proposed in the petition/application shall be presented.

(B) After the public notice of scheduled hearing before the Planning Board is delivered to the newspapers, no amendments to the additional conditions and requirements specified in the petition/application shall be added which are less restrictive, including but not limited to less setback, more dwelling units, greater height, more access points, new uses and fewer improvements.

(C) No rezoning to a Conditional Use District shall be approved unless all conditions and requirements for the companion Special Use Permit have been included voluntarily by the petitioners, or their authorized representatives. Any condition and site-specific standards imposed shall address the impacts reasonably expected to be generated by the development or use of the site. (2/06/06)

(D) No rezoning to a Conditional Use District shall be approved unless the companion Special Use Permit is also approved for the use or uses specified.

(E) The companion Special Use Permit shall be approved only if the requirements of Article VII, "Provisions for Uses Allowed as Special Uses", Section 55.2-3 and Section 55.2-4(2) are fully satisfied.

(2) Property Owner and Public Notices - Follow the provisions of Section 112-1 of the Zoning Ordinance.

(3) Planning and Land Use Department Review - Follow the provisions of Section 112-2 of the Zoning Ordinance.

(4) Planning Board Consideration

(A) Follow the provisions of Section 112-3 of the Zoning Ordinance except as indicated below.

(B) Planning Board members may propose additional conditions and requirements beyond those listed in the petition/application. Before the Board votes to recommend approval or denial, the Board Chairman shall permit the petition/application to be withdrawn or amended if so desired by the petitioners or their authorized representatives. If the petitioners desire additional time to consider their course of action, they may request a continuance to the next scheduled public hearing of the Board.

(C) The Board shall document the specific factual findings and analysis leading to its recommendation. A recommendation for approval shall be based on findings that the requirements of Sections 55.2-2 and 55.2-3 have been fully satisfied.
(5) **Appeal of Planning Board Recommendations** - Follow the provisions of Section 112-4 of the Zoning Ordinance.

(6) **Action by the County Commissioners**

(A) Follow the provisions of Section 112-5 of the Zoning Ordinance except as indicated below.

(B) One or more Commissioners may propose additional conditions or requirements beyond those contained in the petition/application. Before the Commissioners vote to approve or deny, the Chairman of the Commissioners shall permit the petition/application to be withdrawn or amended if so desired by the petitioners or their authorized representatives. If the petitioners desire additional time to consider their course of action, they may request a continuance.

(C) When the petitioners have exercised or rejected their option to amend their petition/application, it shall be considered for approval or denial as a two-part ordinance amendment. The proposed Conditional Use District rezoning is considered first, then the companion Special Use Permit proposal. If the Conditional Use District is denied, the Special Use Permit is not considered. If both the Conditional Use District and the companion Special Use Permit are approved, the ordinance amendment is adopted. If the Conditional Use District is approved but the Special Use Permit is denied, then the Commissioners shall immediately rescind their approval of the Conditional Use District because failure to do so will create a Conditional Use District without an approved use. Approval shall be based on findings that the requirements of Sections 55.2-2 and 55.2-3 have been fully satisfied.

(7) **Effect of Approval**

(A) If the petition/application is approved, establishing the Conditional Use District, all conditions attached thereto by the companion Special Use Permit shall be binding on the tract included in the Conditional Use District and all subsequent development and use of the tract shall be in accordance with the approved plan and conditions. No building permit shall be issued for any development within a Conditional Use District except in accordance with an approved Special Use Permit.

(B) If any condition imposed under the companion Special Use Permit is found to be illegal, the approval of both the Special Use Permit and the Conditional Use District shall be null and void, and the tract shall be rezoned in accordance with the process for map amendment outlined in Section 112. (12/07)

55.2-5: **Alterations to Approved Conditional Use Districts**
(1) Minor changes to an approved Conditional Use District or its companion Special Use Permit shall be considered in the same manner as that used for Special Use Permits as set forth in Section 71-1(9) of the Zoning Ordinance.

(2) Any request for a change to an approved Conditional Use District that does not qualify as a minor change under the provisions of Section 71-1(9) of the Zoning Ordinance shall be submitted as a new Conditional Use District.

55.2-6: Enforcement

(1) Failure to Proceed in a Timely Manner – If within 24 months from the date of approval of the Conditional Use District, no building permit has been issued for the subject tract, the Planning and Land Use Department may schedule a hearing for the Planning Board to consider progress made. If it is determined that active efforts are not proceeding, the Planning Board may send forward a recommendation to the County Commissioners to simultaneously revoke the Special Use Permit and rezone the Conditional Use District to its classification prior to approval. (10/7/91 and 12/3/07) If an extension is desired, a request must be submitted in writing to the New Hanover County Planning and Land Use Department prior to the expiration. Extensions may be granted in accordance with section 112-6 of the Ordinance.

(2) Failure to Comply

(A) The Planning and Land Use Director shall enforce the Conditions and Requirements specified for each Conditional Use District and its companion Special Use Permit following the provisions of Articles X and XIII of the Zoning Ordinance.

(B) If a violation of a condition or requirement is not corrected within a reasonable time period, the Planning and Land Use Director shall also refer the matter to the Planning and Land Use Department for initiation of proceedings to simultaneously revoke the Special Use Permit and rezone the Conditional Use District to its classification prior to approval in accordance with the process outlined for map amendment in Section 112. (12/3/07)
Section 55.3: CZD Conditional Zoning District
(5/21/12)

55.3-1: Purpose

The Conditional Zoning District procedure is established to address situations where a particular land use would be consistent with the New Hanover County Land Use Plan and the objectives of this ordinance and where only a specific use or uses is proposed for the project.

This procedure is intended primarily for use with transitions between zoning districts of very dissimilar character (e.g. R-15 and B-2) where a particular use or uses, with restrictive conditions to safeguard adjacent land uses, can create a more orderly transition benefiting all affected parties and the community-at-large.

This procedure is intended only for voluntary proposals submitted in the names of the owners of all property included in the petition/application.

This procedure is intended only for firm development proposals, and shall not be used for tentative projects without definitive plans.

55.3-2: Uses and Development Requirements

(1) Only uses allowed by right in the corresponding General Use District are eligible for Conditional Zoning District consideration and any such use within a Conditional Zoning District shall, as a minimum requirement, satisfy all the regulations of the corresponding General Use District.

(2) Within a Conditional Zoning District, the Permit may specify additional conditions and requirements which represent greater restrictions on development and use of the tract than the corresponding General Use District regulations, or other limitations on land which may be regulated by state law or local ordinance. Such conditions and requirements shall not specify ownership status, race, religion, character or other exclusionary characteristic of occupant, shall be objective, specific and detailed to the extent necessary to accomplish their purpose, and shall relate rationally to making the Permit compatible with the New Hanover county Land Use Plan, and other pertinent requirements of the Zoning Ordinance, and to securing the public health, safety, morals, and welfare.

55.3-3: Petition/Application

(1) Who May Submit - Conditional Zoning District petition/ applications may be submitted only by all owners of all real property included in the petition/application.

(2) Content - Each Conditional Zoning District petition/application shall include a complete rezoning petition containing the following general and site plan information for the tract to be rezoned.
(A) Tract boundaries and total area and location of adjoining land parcels and roadways;

(B) Existing zoning of the tract and neighboring parcels and proposed tract zoning;

(C) Proposed use of land, structures and other improvements. For residential uses, this shall include number, height and type of units and site plan outlining area to be occupied by each structure and/or subdivided lot boundaries. For non-residential uses, this shall include approximate square footage and height of each structure, an outline of the area it will occupy and the specific purpose for which it will be used;

(D) Development schedule including proposed phasing;

(E) Traffic and Parking Plan to include a statement of impact concerning local traffic near the tract, proposed right-of-way dedication, plans for access to and from the tract, location, width and right-of-way for internal streets and location, arrangement and access provisions for parking areas; A transportation information sheet is required for all projects and for any development that will generate more than 100 trips during the peak hour or where a significant impact to the existing traffic pattern is anticipated, a traffic impact study may also be required. The study shall be prepared in accordance with Standards and Guidelines approved by the County and shall be submitted at least four weeks prior to the first scheduled meeting of the project’s review.

(F) All existing and proposed easements, reservations, required setbacks, rights-of-way, buffering and signage;

(G) The one hundred (100) year flood plain line;

(H) Location and sizing of trees required to be protected under Section 62 of the Zoning Ordinance.

(I) Any additional conditions and requirements, which represent greater restrictions on development and use of the tract than the corresponding General Use District regulations, which are the minimum requirements in the Conditional Zoning District, or other limitations on land which may be regulated by state law or local ordinance.

(J) Any other information that will facilitate review of the proposed change.

(3) Submittal Procedure - Follow the provisions of Section 111 of the Zoning Ordinance

55.3-4: Approval Process

(1) Overview

(A) After the public notice of scheduled hearing before the Planning Board is delivered to the newspapers, no amendments to the additional conditions and requirements specified
in the petition/application shall be added which are less restrictive, including but not limited to less setback, more dwelling units, greater height, more access points, new uses and fewer improvements.

(B) No rezoning to a Conditional Zoning District shall be approved unless all conditions and requirements have been included voluntarily by the petitioners, or their authorized representatives. Any condition and site-specific standards imposed shall address the impacts reasonably expected to be generated by the development or use of the site.

(2) Property Owner and Public Notices - Follow the provisions of Section 112-1 of the Zoning Ordinance.

(3) Planning and Land Use Department Review - Follow the provisions of Section 112-2 of the Zoning Ordinance.

(4) Planning Board Consideration

(A) Follow the provisions of Section 112-3 of the Zoning Ordinance except as indicated below.

(B) Planning Board members may propose additional conditions and requirements beyond those listed in the petition/application. Before the Board votes to recommend approval or denial, the Board Chairman shall permit the petition/application to be withdrawn or amended if so desired by the petitioners or their authorized representatives. If the petitioners desire additional time to consider their course of action, they may request a continuance to the next scheduled public hearing of the Board.

(C) The Board shall base its recommendation in consideration of identified relevant adopted plans for the area including but not limited to comprehensive plans, strategic plans, the CAMA Plan, district plans, area plans, neighborhood plans, corridor plans and other land use policy documents.

(5) Appeal of Planning Board Recommendations - Follow the provisions of Section 112-4 of the Zoning Ordinance.

(6) Action by the County Commissioners

(A) Follow the provisions of Section 112-5 of the Zoning Ordinance except as indicated below.

(B) One or more Commissioners may propose additional conditions or requirements beyond those contained in the petition/application. Before the Commissioners vote to approve or deny, the Chairman of the Commissioners shall permit the petition/application to be withdrawn or amended if so desired by the petitioners or their
authorized representatives. If the petitioners desire additional time to consider their course of action, they may request a continuance.

(C) When the petitioners have exercised or rejected their option to amend their petition/application, it shall be considered for approval or denial. Approval shall be made in consideration of identified relevant adopted plans for the area including but not limited to comprehensive plans, strategic plans, the CAMA Plan, district plans, area plans, neighborhood plans, corridor plans and other land use policy documents.

(7) Effect of Approval

(A) If the petition/application is approved, establishing the Conditional Zoning District, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district’s classification, the approved site plan or master plan for the district, and any additional approved rules, regulations and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

(B) If a petition is approved, only those uses and structures indicated in the approved petition and site plan or land use area indicated on the approved site plan shall be allowed on the subject property.

(C) If any condition imposed under the Conditional Zoning District Permit is found to be illegal, the approval of the Conditional Zoning district shall be null and void, and the tract shall be rezoned in accordance with the process for map amendment outlined in Section 112.

55.3-5: Alterations to Approved Conditional Zoning Districts

(1) Minor changes to an approved Conditional Zoning District shall be considered in the same manner as that used for Special Use Permits as set forth in Section 71-1(9) of the Zoning Ordinance.

(2) Any request for a change to an approved Conditional Zoning District that does not qualify as a minor change under the provisions of Section 71-1(9) of the Zoning Ordinance shall be submitted as a new Conditional Zoning District.

55.3-6: Enforcement

(1) Failure to Proceed in a Timely Manner – If within 24 months from the date of approval of the Conditional Zoning District, no building permit has been issued for the subject tract; the Planning and Land Use Department may schedule a hearing for the Planning Board to consider progress made. If it is determined that active efforts are not proceeding, the Planning Board may send forward a recommendation to the County Commissioners to simultaneously revoke the
Conditional Zoning District and rezone the district to its classification prior to approval. If an extension is desired, a request must be submitted in writing to the New Hanover County Planning and Land Use Department prior to the expiration. Extensions may be granted in accordance with section 112-6 of the Ordinance. (12/17/2012)

(2) Failure to Comply

(A) The Planning and Land Use Director shall enforce the Conditions and Requirements specified for each Conditional Zoning District following the provisions of Articles X and XIII of the Zoning Ordinance.

(B) If a violation of a condition or requirement is not corrected within a reasonable time period, the Planning and Land Use Director shall begin initiation of proceedings to rezone the Conditional Zoning District to its classification prior to approval in accordance with the process outlined for map amendment in Section 112.

Section 55.4: SHOD Special Highway Overlay District
(2/3/86)

55.4-1: Purpose - The purpose of the Special Highway Overlay District (SHOD) is to protect the natural beauty and scenic vista that exists along Interstate Highways and other specially designated roadways that serve as major access ways and gateways into New Hanover County. Protection of these roadways is important and necessary to maintain and preserve the County's undisturbed roadsides that are characterized by their natural woodlands and open spaces. The continued protection of these scenic highways is also a valuable asset to the County's tourism economy and enhances the attractiveness of the area for trade and investment.

The Special Highway District shall be in addition to any other zoning districts where applied so that any parcel of land lying in a SHOD may also lie in one or more of the zoning districts provided for by this Ordinance. The development of all uses permitted by right or by special use permit in the underlying district, if any, shall be subject to the requirements of both the SHOD and the underlying district, if any. In the event the SHOD requirements conflict with the underlying district requirements, the requirements of the SHOD shall take precedence. If requirements for a particular item are not specified in the SHOD but are specified by the underlying district, then the requirements of the underlying district shall be followed.

55.4-2: Procedures - In creating a Special Highway Overlay District (SHOD), the same procedures shall be followed as those for making any other amendments to the Zoning Ordinance under Article XI hereof.

55.4-3: Applicability - It is hereby required that all non-residential structures, buildings and improvements to property located within the SHOD comply with the following
regulations. Access roads and utility (communications, gas, electrical, sanitary services) structures are exempted from these controls. (5/4/87)

(1) **Setback Requirements** - All non-residential buildings and accessory uses shall set back no less than 100 feet from the right-of-way of the designated highway. No building shall be located less than 25 feet from any property line. However, the setback may be reduced for those buildings, accessory uses and off-street parking by a maximum of 25% if the project provides additional plantings along the right-of-way. At a minimum, these plantings shall consist of one deciduous or evergreen tree at least 2.5"-3" caliper for every 40 feet of road frontage. These streetscape trees must be selected and planted in accordance with Section 62 of the Ordinance. Plantings must be located in the first ten feet of land adjacent to and parallel to the right-of-way except that plantings may be moved outside this area if it is determined that overhead power lines would interfere with the trees' natural growth. (3/9/95)

(2) **Enclosed Facilities** - All manufacturing, storage, offices, wholesaling, retail sales or similar uses shall be conducted within an enclosed building.

(3) **Outside Storage** - Outside storage can be permitted if it is located directly to the rear of the principal building and is not visible from the designated highway. The outside storage area shall not occupy an area wider than the principal building or larger than one-half (1/2) the area of the principal building. A three (3) row screen shall be provided in accordance with the Landscape standards of Section 62. No storage shall be permitted above the height of the screen. Junk yards and scrap processors shall not be permitted.

(4) **Parking and Loading**

(A) Parking and loading shall be provided in accordance with the provisions set forth in Article VIII and Section 62. All loading shall be from the side or rear of the principal structure as viewed from the designated highway. If loading is performed on the side of the building, as viewed from the designated highway, a three (3) row screen shall be provided in accordance with the Landscape Standards of Section 62.

(B) No vehicular or equipment parking except automobile parking shall be permitted in the yard area adjacent to the designated highway. All automobile parking shall be set back at least one hundred (100) feet from the right-of-way of the designated highway if such highway is an interstate or thoroughfare with controlled access. Other US and NC numbered highways shall require a fifty (50) feet setback for automobile parking.

(5) **Lot Coverage** - The total ground area covered by principal buildings and all accessory buildings shall not exceed fifty (50) percent of the site.

(6) **Signs** - Signs shall be in accordance with Article IX except that only one free standing ground sign not to exceed six (6) feet in height and a maximum surface
area of 150 square feet may be permitted within the 100-foot setback. No outdoor advertising signs shall be permitted. (3/14/94)

(7) Any parcel of land that falls within overlapping Special Highway Overlay Districts shall be subject to all of the setback requirements of this section for one of the two designated highways. Setbacks from the right of way of the secondary highway frontage as determined by the applicant may be reduced by 50%. (7/04)
Section 55.5: WSW Water Supply Watershed Overlay District
(11/1/93) (4/6/99)

55.5-1: Purpose - The purpose of the Water Supply Watershed Overlay District is to preserve and protect the water quality of the County’s surface water supplies from pollution as a result of activities from new construction as well as existing development. The preservation of these potable drinking water supplies is important to the orderly growth of the County and serves to ensure that primary and secondary sources of drinking water are available to serve existing and future populations. This ordinance is established as mandated by the Water Supply Watershed Protection Act, (NCGS 143-214.5)

The Water Supply Watershed Overlay District (WSW) shall be in addition to any other zoning districts where applied so that any parcel of land lying in a WSW may also lie in one or more of the zoning districts provided for by this Ordinance. The development of all uses permitted by right or by special use permit in the underlying district, if any, shall be subject to the requirements of both the WSW and the underlying district, if any. In the event the WSW requirements conflict with the underlying district requirements, the requirements of the WSW shall take precedence. If requirements for a particular item are not specified in the WSW but are specified by the underlying district, then the requirements of the underlying district shall be followed.

55.5-2: Procedures - In creating a Water Supply Watershed Overlay District, the same procedures as those for making amendments to the Ordinance (Article XI) or appeals thereto (Article XII) shall be followed.

55.5-3: Applicability - It is hereby required that the development and improvement of property, including the subdivision of land shall be subject to the performance controls listed herein if the parcel(s) of record is located within the water supply watershed. The following uses, however, are exempted from these controls:

(1) The development of a single family home, one residential duplex, or the location of two or fewer mobile homes on a parcel or lot of record where permitted by the underlying zoning.

(2) The installation and maintenance of water, sewer, electrical and other utility systems where it can be demonstrated that the installation causes only minimal disturbance of the water supply.


(4) Silviculture subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209)

55.5-4: Water Supply Watershed Resources - Official maps of and information pertaining to the water supply watershed shall be maintained by and shall be available for review at the County Planning and Land Use Department. These maps shall serve as the official source by which to identify the boundaries of the watershed.
55.5-5: **General Development Restrictions** - Except as noted above, all land development within the water supply watershed shall comply with the following design limitations:

1. **Agriculture** - Existing or new agricultural activities conducted after January 1, 1994 shall maintain a minimum 10-foot vegetated buffer, or equivalent buffer as determined by the Soil Conservation Service, adjacent to the shore line of the water supply.

2. **Non-residential uses** - All non-residential activities except as noted above shall be limited to a built-upon area not to exceed 24% of the site. Additionally, non-residential uses that store toxic or hazardous wastes or other contaminants that are listed in SARA, Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances) in any amount will not be allowed unless they provide a spill containment plan approved by the Director of Emergency Management. Such plans shall be updated every two years. Local response to spills shall be in accordance with the Basic Plan, Appendix 8, Hazardous Materials of the County's Emergency Operations and Hurricane Evacuation Plan.

3. **Residential Uses**: The maximum allowed density for new subdivisions, including performance developments, shall not exceed that permitted by the RA Rural Agriculture Zoning District. (51.3-2(1) and 51.3-5).

55.5-6: **Stormwater Management** - A drainage plan pursuant to Section 52.5 of the Subdivision Ordinance. All structures shall be set back at least 100 feet from the mean high water line. (11/1/93)(5/5/97)
ARTICLE VI: SUPPLEMENTARY DISTRICT REGULATIONS

Section 60: Development Plans

Section 60.1: Site Plans

Site plans required to be submitted for Performance Residential and High Density Developments shall show the following: (3/22/82)

(1) Scale no smaller than one (1) inch to two hundred (200) feet.
(2) Vicinity or location map.
(3) Name of designer, engineer or surveyor.
(4) North arrow.
(5) Owner's name and address.
(6) Developer (if other than owner).
(7) Development name.
(8) Date
(9) Boundary line of tract to be developed drawn accurately to scale with linear and angular dimensions.
(10) Total gross acres in the tract.
(11) Total acres occupied by all structures (including street right-of-way and parking areas)
(12) Total acres and boundaries of land lying within the 100 year flood plain and below mean high water mark.
(13) Boundaries of all open space areas.
(14) Location of all existing and proposed structures.
(15) Total number of dwelling units to be constructed with number of bedrooms per unit.
(16) Location and right-of-way widths of all streets and easements (and other areas to be dedicated to the public use)
(17) Location and width of all private streets.
(18) Street names and street designations (public or private).
(19) Location and description of all recreation areas and facilities.
(20) Location of natural features including topographical information (contour interval 2 feet), water courses and approximate forest lines.
(21) Location and size of all proposed utility and drainage facilities.
(22) The following additional items shall be shown on Performance Residential Site Development Plans only:

(A) Total acres of submerged land;
(B) Plat area per dwelling unit (excluding dedicated rights-of-way, parking and submerged areas); and
(C) Acreage of open space actually provided (1/4/82)
(23) High Density Development plans shall show the calculations necessary to determine the BASE SITE area as well as the types of OPEN SPACE and IMPROVED RECREATIONAL LAND.

(24) Site Plan (Performance Residential and High Density) - If the development is within a Conservation Overlay District, types, boundaries, areas, and required setbacks shall be included for all conservation resource areas. Information concerning these areas is available at the County Planning and Land Use Department. (12/1/84)

(25) The approximate delineation of Corps of Engineers Section 404 and Section 10 Wetlands. (10/99)

Section 60.2: Open Space Regulations

(1) Open Space Standards - All open space may be reserved and offered for dedication to the County for use as parks, recreation areas, school sites or other public purposes. Any space not offered for dedication to the County shall be shown and designated as private open space. Such open space shall remain undivided and no lot or unit owner or any other person shall bring any action for partition or division of any part thereof except as provided in Chapter 47A (Unit Ownership Act) of the General Statutes. Each lot or unit owner's undivided interest in the use of reasonably maintained open space shall be preserved through covenants running with the land. Title to such areas shall be encumbered for the perpetual benefit of the public generally or the private properties in the development, and all future use shall be consistent with the open space requirements. Improvements clearly incidental to the purpose of these provisions may be made within the open space.

(2) Access to Open Space - All lots or units created within the development shall have direct access to all open space and recreational facilities, as provided, by means of dedicated streets or walkways within the development or by the fact of physical contiguity to other public land or lands in common ownership of all residents. The developer shall not place age, race, creed, sex or economic restrictions (other than maintenance assessments) upon lot or unit owners for the use of said open space. Land which is restricted in any way so as to be for the use, benefit or enjoyment of a select group within the development shall not qualify as open space. (7/8/02)

(3) Open Space Provisions - The developer shall file a declaration of covenants and restrictions running with the land that will govern the open space. If said open space is to be retained by the developer, the developer shall be responsible for liability insurance, taxes, and the maintenance of all recreational facilities, and open space. This declaration shall be submitted prior to final plat approval. If a homeowners association or other such non-profit ownership is established, the declaration shall include but not be limited to the following:

(A) The homeowners association or the non-profit organization shall be established before any lots are sold;
(B) Membership shall be mandatory for each lot buyer, and successive buyer;
(C) The association shall provide for liability insurance, any taxes and the maintenance of all grounds and facilities;
(D) Any sums levied by the association that remain unpaid shall become a lien upon the lot owner's property;
(E) DELETED (11/7/83)

Section 60.3: Setbacks

For the purposes of this Ordinance, setbacks shall not be required for nonresidential structures located within Commercial, Office and Institutional and Industrial Districts that abut nonresidential uses in Commercial, Office and Institutional and Industrial Districts. (12/17/2012)

Setbacks shall be measured from the structure. If a roof overhang extends more than two (2') feet from the structure, the setback shall be measured from the drip line of the roof. (12/17/2012)

The required minimum setbacks for structures located within Commercial, Office and Institutional and Industrial Districts abutting residential uses and/or platted lots on residentially zoned property shall be calculated from Table 60.3 utilizing the following formulas. Where the adjacent residential district is occupied by non-residential uses, the minimum setback shall be twenty (20) feet. (5/4/98)

(1) Side yard Required setback
(2) (Building Height) x (Factor from Column B, Table 60.3)
(3) Rear yard Required setback
(4) (Building Height) x (Factor from Column D, Table 60.3)
(5) Reductions in setbacks
(6) The required setbacks may be reduced as specified in Section 62. In no case, however, shall any side or rear yard setback be less than specified in Table 60.3 (3/9/88)

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>SIDE YARD SETBACK FACTOR</th>
<th>MINIMUM SIDE YARD SETBACK, IN ALL CASES</th>
<th>REAR YARD SETBACK FACTOR</th>
<th>MINIMUM REAR YARD SETBACK, IN ALL CASES</th>
</tr>
</thead>
<tbody>
<tr>
<td>B-1</td>
<td>2.75</td>
<td>25’</td>
<td>3.73</td>
<td>30’</td>
</tr>
<tr>
<td>B-2</td>
<td>2.75</td>
<td>30’</td>
<td>3.73</td>
<td>35’</td>
</tr>
<tr>
<td>O&amp;I</td>
<td>2.75</td>
<td>25’</td>
<td>3.73</td>
<td>30’</td>
</tr>
<tr>
<td>I-1</td>
<td>3.08</td>
<td>35’</td>
<td>4.33</td>
<td>40’</td>
</tr>
<tr>
<td>I-2</td>
<td>3.49</td>
<td>40’</td>
<td>5.14</td>
<td>45’</td>
</tr>
<tr>
<td>A-I</td>
<td>3.08</td>
<td>35’</td>
<td>4.33</td>
<td>40’</td>
</tr>
</tbody>
</table>
Section 60.4: Fire Hydrants

The construction or expansion of any commercial, office and institutional or industrial project resulting in at least 25,000 square feet of floor space shall include adequate fire protection through the provision of at least one fire hydrant, provided the project has a water system meeting State requirements (Section .2101 Title 10 - Chapter 10D NCAC) for fire hydrants. These hydrants shall be connected with the water system serving the project and shall be constructed to specifications established by the County Fire Marshall based on NFPA standards. (1-03-89)

Section 60.5: Homeowners Associations

The following requirements shall apply whenever a homeowners association is established for Performance Residential, Exceptional Design Zoning Districts, and High Density Developments: (3/22/82)

1. When a plat or map is to be recorded, the maps or plat shall contain a Certificate indicating the book and page number of the homeowners association covenants, conditions and restrictions. (11/83)
2. Responsibilities for maintenance of private streets, open space, recreation facilities, and other common areas shall be specified.
3. Responsibilities for exterior maintenance of attached dwelling units shall be specified.
4. The Association shall be authorized to rebuild damaged or destroyed portions of structures containing attached dwelling units when the individual owner fails to do so. (1/4/82)

Section 60.6: Lighting
(7/1/2019)

All site lighting for non-residential or multi-family uses shall be located and directed so as not to shine or reflect directly onto any adjacent residential zoning districts and/or uses.

Section 61: Traffic

Section 61.1: Visibility at Intersections in Residential Districts

On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of three (3) and ten (10) feet above the finished grades of the intersecting streets in the area bounded by the street rights-of-way of such corner lots and a line joining points along said streets rights-of-way fifty (50) feet from the point of intersection.

Section 61.2: Structures to Have Access
61.2-1: Every structure hereafter erected or moved shall be on a lot adjacent to a road as defined in Section 23-86, or to a right-of-way or easement which was platted and recorded prior to 1969. The following are exempt from the requirements of this Section: (1/5/81) (8/2/82).

(1) Lots of record prior to the adoption of this Ordinance that have sufficient area to meet the minimum requirements of the district in which they are located;
(2) Structures that are to be used in conjunction with a bona fide farming operation; and,
(3) Building lots having access over a private driveway or easement at least thirty (30) feet in width (5/1/89) to a road as defined in Section 23-86, provided the driveway or easement is an easement appurtenant to three (3) or fewer lots and the easement is solely owned by a lot owner or in common by three (3) or fewer lot owners.

61.2-2: No building permit for any structure shall be issued which requires NCDOT approval for a Driveway Permit until said permit has been approved. Evidence of approval shall accompany the application for building permit.

Section 61.3: Thoroughfare Requirements

These requirements shall apply to Planned Developments and High Density developments:

(A) Access to Thoroughfares - The property to be developed must have direct access to and from an existing major or minor arterial roadway, as indicated on the New Hanover County Thoroughfare Classification Plan. The direct access requirement may be satisfied as follows:

1. One or more property boundary lines is contiguous with and utilizes access to and from said thoroughfare; or
2. The property accesses said thoroughfare by a NCDOT-maintained public street or by a private street designed and constructed in accordance with the County’s minimum standards for a collector road.

Section 61.4: Traffic Impact Analysis

Before a nonresidential project is submitted for site plan review, the applicant shall prepare a Traffic Impact Worksheet which will be submitted to the Planning and Land Use Department for verification.

(1) Where the worksheet indicates traffic generation of 100 peak hour based upon the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, then the applicant will be required to perform a Traffic Impact Analysis.
(2) The applicant and/or the applicant’s traffic engineer shall request a scoping meeting with the Planning and Land Use Director or his designee, the MPO Coordinator and an NCDOT Traffic Engineer to determine the scope of the Traffic Impact Analysis study. Electronic communication among parties may be utilized to facilitate the scoping process when necessary.

(3) All Traffic Impact Analysis studies shall be prepared by a licensed engineering firm that has relevant experience to perform the requirements defined in the scoping process, and shall be signed and sealed by a qualified professional engineer. To the extent applicable, general guidance and standards for traffic impact analyses is outlined in a publication entitled “Traffic Impact Study Standards” originally approved by the County Commissioners on May 20, 2002.

(4) The completed study will be submitted to the Planning and Land Use Director or the Planning and Land Use Director’s designee for review and approval.

(5) In considering the results of the traffic impact analysis, the Planning and Land Use Director, after collaboration with the MPO Coordinator and NCDOT, may accept the recommendations of the TIA or may require additional improvements based on identifiable cumulative impacts or special public safety situations. The collaboration shall follow procedures already established by the MPO for communication with all parties.

(6) The applicant will be notified with comments within 30 days of receipt of the final TIA.

(7) Once the mitigation measures are agreed upon by the MPO, NCDOT and County, the Wilmington MPO will prepare a memorandum approving the Transportation Impact Analysis and identifying the transportation improvements necessary to accommodate the proposed development. Mitigation measures required as part of the TIA acceptance shall be included in the final site plan submitted for review.

(8) Appeals – Within 10 working days of a decision on required mitigation measures, an applicant may appeal the decision through the Board of Adjustment in the form of a letter stating the reasons for appeal and including documentation in support of the appeal. In hearing disputes, the Board of Adjustment may request an independent study by an outside source, chosen by the County and paid for by the applicant, to resolve questions of traffic impact and appropriate mitigation thereof. (11/07)
Section 62: Landscaping

Section 62.1: Landscaping
(5/85) (7/01)

62.1-1: Functions
Landscaping accomplishes the following functions:

1. Maintains visual character of the community;
2. Screens objectionable views within and between uses;
3. Defines functional exterior spaces;
4. Reduces glare into and from the site;
5. Reduces dust and other pollutants suspended in the air;
6. Controls noise and provides acoustical modification into and from the site;
7. Influences wind patterns and their effects upon proposed uses;
8. Contains odors and minimizes their passage into and from the site;
9. Controls the direction and velocity of surface water runoff;
10. Minimizes soil erosion;
11. Moderates interior and exterior temperatures by controlling solar radiation on buildings and paved surfaces and air pollution;
12. Maintains the esthetic quality of property and enhances its value;
13. Maintains the integrity of the natural heritage;
14. Maintains indigenous species;
15. Transpires water.

62.1-2: Applicability

In order to meet the above functions, landscaping shall be required for the purposes of:

1. Buffering adjoining and competing land uses;
2. Landscaping parking lots with five or more parking spaces or those areas 2500 square feet or more devoted for vehicular use;
3. Retaining existing trees in all residential subdivisions of more than 5 lots, on High-Density development, in an Exceptional Design Zoning District, or Planned Development; and commercial, office and institutional and industrial developments. (4/2/90)

Landscaping for the above three (3) types of projects shall meet the general landscaping performance standards specified in Section 62.1-3: Additional performance standards, as applicable, shall also be met for buffer strips (Section 62.1-4), parking lots (Section 62.1-5) street yards (Section 62.1-10), and foundation plantings (Section 62.1-11).
62.1-3: **General Standards for Landscaping**

The following general standards shall be used in the process of designing all landscaping plans:

1. **Retention of existing vegetation** - Vegetation existing on the site at the time of development shall be retained as required below:

   (A) If existing trees and shrubs on the site where a buffer is required meet at least 50% of the required opacity standard, then those trees and shrubs shall be retained for use in buffering and supplemented as needed with plantings, fences, and/or berms to meet the required standards. In all cases, existing trees greater than 8" in diameter at 4.5 feet in height (DBH) shall not be removed from a twenty-foot buffer strip along the perimeter.

   (B) Hardwood trees at least 8" DBH, all conifer trees at least 12" DBH, and all dogwoods and American hollies, larger than 4" DBH anywhere on the site shall be considered protected, and shall be preserved to the greatest extent practical and incorporated into required landscaping. (4/2/90) Hardwood and conifer trees at least 24" DBH, and dogwoods, American Hollies and flowering trees at least 8" DBH, anywhere on the site shall be considered protected, and must be preserved or their removal mitigated as hereinafter provided, regardless of location on the site, unless the trees are shown to be dead, dying or severely damaged or diseased as a result of natural factors.

1. These trees shall be inventoried as part of the landscape plan, in accordance with Section 62.1-8.

2. If any of these trees are to be cleared from the site, reasons for doing so shall be clearly stated on the landscape plan. Suitable reasons for clearing one or more of these trees include such factors as trees cover more of the site area than is required to be landscaped and the parcel will be fully used, or that it is impossible to position buildings on the parcel and meet setback requirements without tree removal. Unsuitable reasons include such factors as more parking than the minimum specified by Section 80 is desired or that non-selective clearing by bulldozer is less expensive than selective clearing by chainsaw.

3. Existing trees specified on the required landscape plan to remain on the site as a function fulfilling purposes of this Section, shall be protected from vehicular movement and material storage during construction and in the final landscape design. An undisturbed area with a porous surface shall be reserved around each tree as determined by the tree's drip ring of its natural canopy. The undisturbed area shall be protected during construction by a suitable fence, such as a wooden slat snow fence or wire fence. (4/2/90)
4. If a protected tree is destroyed, substantially damaged, or dies as a result of negligence on the part of the property owner within three years after completion of construction, then replacement trees shall be planted on the site with a total diameter equal to twice the diameter of the protected tree. For instance, if a 16" diameter tree is cut down, eight 4" trees will be replanted. (4/2/90) A minimum growing area of 144 sq ft shall be provided for each replacement tree. If the replacement trees cannot be accommodated on the site, in the judgement of the Zoning Administrator, then a payment may be made to the County's Tree Improvement Fund equivalent to the cost and installation for the number of trees which cannot be planted on site.

5. A minimum of 15 trees at least 2" in diameter (measured 6" above the ground) shall be retained or planted on the parcel for each acre or proportionate area disturbed by development. (3/9/88)

(2) Selection of Plant materials - All plant materials and their spacing requirements, which are to be planted to meet the opacity and height requirements of this section shall be either selected from the manual, "Tree and Plant Materials for Landscaping," prepared by and available from the County Planning and Land Use Department or shall be approved by the New Hanover County Agricultural Extension Service.

(3) Provision for other uses - Up to fifteen per cent (15%) of the area to be landscaped may be covered with surfaces specifically intended to afford intensive use and enjoyment by employees or the public (such as walking paths, bench and table pads, etc.).

(4) Adequate sight angles - At all points of egress from off-street parking areas to a road, unobstructed visibility shall be maintained at an elevation of between three (3) and seven (7) feet of the pavement level, within the two areas formed by two right angle triangles on the sides of the driveway. Each triangle shall have a base measuring 15 feet along the edge of the driveway and a height measuring 30 feet along the edge of the road right-of-way. At the corners of road intersections, unobstructed visibility shall be maintained at an elevation between three (3) feet and seven (7) feet of the pavement level within an area required by the regulations adopted by the Department of Transportation, State of North Carolina, in "Subdivision Roads: Minimum Construction Standards" (May 1, 1983) and any subsequent amendments thereto or the regulations adopted by the governing body, whichever are the greater.

(5) It is encouraged that stormwater management systems be integrated into the landscaping plan.

(6) Single-family residences being constructed on lots of 2 acres or less are exempt from this section.

62.1-4: Additional Requirements for Berms and for Yards in which Buffers are Required
Buffer strips are designed to protect adjoining land uses, particularly residential, from the noise, heat, dust, lights, threats to privacy, and aesthetic impacts from more intense land-uses. Buffer strips shall be required along all property lines adjacent to a residential use or district, except where a reduced building setback precludes placement of a buffer strip in situations where the adjoining property contains a nonresidential use on residentially zoned property, such as a church or school. The more intense land use shall be required to provide the buffer as part of its yard requirements. The following requirements shall be met for buffer strips and the yards in which buffers are required:

1. **Location of buffer strips** - Buffer strips shall be required to screen any nonresidential use from any residential use or district. Buffers strips shall also be required to screen the below developments from the adjacent land uses, however, no buffer will be required for high density detached lots provided lots equal or exceed 5000 square feet (10/7/91). Buffer strips shall be required only along the perimeter boundary of an EDZD (3/1/10).

<table>
<thead>
<tr>
<th>New Development of Subject Site</th>
<th>Must Provide Buffer Strips From:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Attached residential developments;</td>
<td></td>
</tr>
<tr>
<td>• Mobile home parks;</td>
<td></td>
</tr>
<tr>
<td>• High density developments; or</td>
<td></td>
</tr>
<tr>
<td>• Planned developments.</td>
<td>• Detached or duplex residential structure;</td>
</tr>
<tr>
<td></td>
<td>• Undeveloped residentially zoned land within the General Residential or Rural Residential place types;</td>
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<tr>
<td></td>
<td>• Platted residential lots; or</td>
</tr>
<tr>
<td></td>
<td>• Proposed residential lots included within an approved and valid preliminary plat for a major subdivision.</td>
</tr>
</tbody>
</table>

2. **Width of buffer strips** - The buffers shall have a base width equal to at least 50% of the required setback. In all cases the base of the buffer shall be equal to or greater than 20 feet. Where a utility easement occupies a portion of the buffer, sufficient buffer must be provided outside the utility easement to meet the required opacity standards.

3. **Allowance for a decrease in setback with an increase in buffer width** - The setback for structures may be decreased if the base width of the buffer strip, as determined in Section 62.1-4(2) above, is increased by the same amount.

4. **Uses in the buffer** - No activities shall occur in the buffer except for maintenance of the buffer and the installation and maintenance of water, sewer, electrical and other utility systems where the installation causes minimal disturbance of existing vegetation. No buffer yard required by this section may contain any building or structure, or extension of any building or mechanical system. This prohibition
shall apply at the time of issuance of a certificate of occupancy and at any time thereafter, and shall include but not be limited to: porches, decks, patios, HVAC components, waste containers, storage buildings or any other fixture or structure, whether temporary or permanent.

62.1-4.1: **Additional Screening Requirements**

(1) **Uses in the rear and side yards abutting a residential use** - The following uses shall be shielded from view from the property line of the residential use by means of a 100% opaque solid wall.

1. dumpsters or other trash holding areas
2. outside storage areas
3. loading/unloading areas
4. heating/air conditioning units, including roof mounted units.

In addition, all lights shall be shielded in such a manner that light from the fixture will not directly radiate into the adjacent property.

(2) **Types of buffer strips** - Buffer strips shall provide approximately 100% opacity. Buffer strips may be occupied only by natural and/or planted vegetation, berms and fencing, as specified below:

(A) Natural vegetation must be retained in accordance with Section 62.1-3(1)(A).

(B) One or more of the following means shall be used to supplement the natural vegetation as necessary or to provide an adequate buffer where no natural vegetation exists:

1. Planted buffer strips - The planted buffer strips shall be at least six feet tall and give approximately 100% visual opacity within one year of planting. Three (3) rows of planted materials shall be required.

2. Combination planted buffer strip with artificial fencing:

   a. Artificial fencing shall be between six (6) to ten (10) feet in height,
   b. If solid artificial fencing is used, two rows of planted materials shall be provided at a minimum height of three (3) feet at initial planting, and give at least 50% visual opacity of the fence at planting.
   c. If permeable artificial fencing is used, two rows of planted materials shall be provided and give approximately 100% visual opacity of the fence within one year of planting.
d. The buffer vegetation shall be located between the fence and the common property line.

3. Combination berm with vegetation:
   a. An earthen berm may be used in conjunction with planted vegetation provided that the combined height of the berm and planted vegetation shall be at least six (6) feet and provide approximately 100% opacity within one year of planting.
   b. The slope of the berm shall be stabilized with vegetation and no steeper than 3:1. The height of the berm shall be 6 feet or less, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth. (3/9/88)

(3) Screening for Dumpsters and Outside Storage along Public Right-Of-Ways The following uses shall be screened from the view of any public right-of-way or adjacent property. Screening shall be at least 8 ft. in height and may consist of living and nonliving material as specified in this section.

1. The rear side of a building where that side abuts a street right-of-way, or any dumpster or trash receptacle storage area used in connection with any business establishment.
2. Any outside storage area for vehicles awaiting repair in connection with any automotive or motor vehicle repair business, where the number of such vehicles exceeds five.
3. Any outside storage area for any equipment used in excavation, building site preparation, or construction. No part of any equipment stored in such area may project above the screen. (7/01)

62.1-5: Additional Landscaping Requirements for Parking Lots

Landscaping is required for parking lots for the purposes of reducing aesthetic impacts of paving or removing the natural vegetation from large areas; to reduce the noise, heat and dust associated with parking lots; and other purposes as listed in Section 62.1-1.

(1) Applicability - Landscaping shall be required for all off-street parking facilities with five or more spaces or those areas 2500 square feet or more devoted for vehicular use. A landscaping plan shall be submitted in accordance with Section 62.1-8.

(2) Design Criteria - Landscaping shall be required for parking lot perimeters and for parking lot interiors.
(A) **Parking Lot Perimeters** - A landscaped strip ten (10) feet in width shall be required along any side of a parking lot abutting a street right-of-way, separate parking lot or residentially zoned property. This landscaping shall consist of, at a minimum, one 3" caliper evergreen or deciduous tree every eighteen (18) to twenty-seven (27) feet. If a buffer strip is required in accordance with Section 62.1-4, then the ten-foot width may be included as part of the buffer strip. (4/2/90) The landscaped strip may be interrupted by driveway connections between parking lots. If adjacent parking lots are developed concurrently then both properties can install a minimum of 5 ft. strip or any multiple agreed upon in writing by the two property owners that would equal 10 ft. of planted area between the parking lots. Adjacent lots that choose to share a double parking row split along the middle of a drive isle are exempt from this requirement.

(B) **Parking Lot Interiors** - Interior landscaping is defined as the landscaping required within the parking lot perimeters. Interior landscaping shall be provided equal to 8% of the total area to be used for parking, loading area, automobile sales lots, driveways and internal drive aisles, or for other vehicular use or pedestrian use. Interior landscaping shall be in the form of planting islands, either separate or protruding from the perimeter landscaping. Each island shall have no horizontal dimension of less than twelve (12) feet measured from back of curb to back of curb. (4/2/90) Each island shall have no less than one planted or existing tree per island, or every 144 sq. ft. with appropriate groundcover to cover the entire island except for a walkway allowance. No parking space shall be located more than one hundred and twenty feet from a planting island. The interior landscaping requirement within storage facilities can be met with landscape islands on the ends of buildings and with protruding perimeter landscaping. (9/5/00) All parking spaces shall be blocked or curbed to prevent vehicles either from overhanging planting islands or landscaped yards by an average of more than one foot or damaging adjacent fences or screens. (3/9/88) Depressions and curb cuts shall be allowed for water quality protection.

1. Interior landscaping within automobile sales lots may be distributed so that smaller understory trees are utilized toward the interior of the lot, and shade trees are placed toward the perimeter.
2. Up to fifteen percent of a landscaped island may be devoted to pedestrian walkways, as needed.
3. At least 75% of the trees required for interior landscaping shall be of a shade/canopy species as defined in the approved plantings list. The planting size shall be a minimum of 2-3 caliper inches.
4. The interior landscaping requirement within storage facilities can be met with landscape islands on the ends of buildings and with protruding perimeter landscaping. (9/5/00)
(C) For redevelopment of nonconforming parking facilities containing five to twenty-five parking stalls inclusive, a perimeter landscape strip may be provided in lieu of interior landscaping, subject to the following requirements:

1. The minimum width of such strip shall be 10 ft.
2. For every forty linear ft. or fraction thereof, the perimeter landscape strip shall contain one canopy tree of at least 3" caliper or three understory trees at least six feet in height and a continuous row of evergreen shrubs at least 18" in height.
3. Where a perimeter landscape strip overlaps a streetyard or bufferyard required elsewhere in this section, the more stringent requirements shall apply.

(D) Parking Area Screening - When a parking facility is within fifty ft. of a right-of-way, if the bufferyard provisions of this ordinance do not call for a planted buffer, a low buffer shall be incorporated into the streetyard to provide protection from vehicle headlights within the parking lot. The buffer shall consist of shrubbery, a grade change or planted berm or any combination thereof that serves to shield traffic on the right-of-way from headlights within the parking lot. The buffer shall be a minimum of three ft. in height and five ft. in width and may be continuous and incorporated into a streetyard, provided the streetyard is fifteen ft. or more in width. Depressions and curb cuts shall be allowed for water quality protection.

(3) Waivers

(A) The County Zoning Administrator may waive all or part of the requirements of this section for any facility which is limited to periodic or intermittent use for vehicular parking lots for churches or recreation facilities, provided the facility is completely covered by grass or otherwise presents a landscaped effect.

(B) The County Zoning Administrator may waive the requirements of this section for temporary parking lots when in their determination it will not violate the purposes of this ordinance. Such waiver shall not exceed one year. (7/01)

62.1-6: Maintenance

(1) All existing vegetation that is used to meet landscaping requirements, all required planted living material, and all required berms shall be maintained by the owner of the property on a continuing basis. (3/9/88) Any planted material which becomes damaged or diseased or dies shall be replaced by the owner within 60 days of the occurrence of such condition. If, in the opinion of the Zoning Administrator there are seasonal conditions which will not permit the timely replacement of the vegetation (e.g. too hot or too cool for successful replanting)
this requirement may be administratively waived until a time certain when the replanting would be successful.

(2) Artificial fencing and nonliving screening buffers shall be maintained, cleaned and repaired by the owner of the property on a continuing basis. Such fencing shall be kept free of litter and advertising.

62.1-7: Administration and Enforcement

(1) Prior to the issuance of a building permit for any new project or renovation or expansion to an existing project required to have landscaping as required by Section 62.1-2, a plan prepared in conformance with the provisions of Section 62.1-8 shall be submitted to and approved by the Zoning Administrator. Projects involving the renovation or expansion of existing structures shall meet the requirements of Section 62.1-4 to the extent practicable. (3/9/88)

(2) No certificate of Occupancy for any construction or renovation shall be approved by the Building Safety Department until:

(A) The required landscaping is completed in accordance with the approved plan; or

(B) A bond or certified check has been posted, which is available to the County, and in sufficient amount to assure installation of the required landscaping. The amount of the bond shall be submitted by the developer and reviewed and determined by the Board of County Commissioners to be acceptable, or

(C) An irrevocable letter of credit issued by a bank in a form approved by the County Attorney, or a deposit of funds in escrow, may be accepted in lieu of bond under the terms and conditions applicable to bonds in Section B above.

(D) No surety or portion thereof, as provided for in this section, shall be released by the Board of County Commissioners until all landscaping has been installed, inspected and approved, and until all required certification of such approval has been presented to said Board.

(3) The Board of Adjustment may modify or waive the requirements of this section, where it can be demonstrated by the property owner that the specific screening buffer or landscaped open space is not needed for the protection of surrounding residential areas because of intervening streets, roadways, drainage ways, or other factors such as natural growth of sufficient height and density to serve the same purpose as the required screening buffer. The Planning and Land Use Director and Urban Forester shall review all requests for modifications or waivers of screening requirements prior to board of Adjustment review. (7/01)
62.1-8: **Landscaping Plans**

Landscaping plans shall be submitted before or at the time of application for the Building Permit for all applicable projects specified in 62.1-2. These plans shall contain the following information. (3/9/88)

1. Date of plan preparation
2. Project name and description of land use
3. Project owner and mailing address
4. A map at a scale of 1"=100' or less showing
   (A) North arrow
   (B) Scale
   (C) Approximate locations and species of all existing hardwood trees at least 8" DBH, all conifer trees at least 12" DBH, and all dogwoods and American hollies at least 4" DBH. The canopy drip line of those trees shall be delineated. (4/2/90) If groves of the protected trees exist that will not be removed or disturbed, it is permitted to label the grove as such on the map, stating the approximate number of protected trees and species mix, without specifying data on each individual tree.
   (D) Locations, dimensions and square footages of required buffer strips and parking lot landscaping.
   (E) Details of required landscaping showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation.
   (F) Location and square footage of structures and parking lots.
   (G) Adjacent zoning districts.
   (H) Approximate locations of all trees greater than 8" DBH within required buffers and of all areas of natural vegetation to be used as part of the buffer. (4/2/90)
   (I) Setbacks of all structures and specifications and shielding of certain uses, as required. (3/9/88)
   (J) All existing and proposed utilities and if applicable, their associated easements.
   (K) Location of any Conservation Resources associated with the parcel including any Rare and Endangered Species in accordance with the North Carolina Wildlife Resources Commission.

5. Proposed schedule for landscaping.
6. Note on plan stating that prior to any clearing, grading or construction activity, tree protection fencing will be installed around protected trees or groves of trees. And no construction workers, tools, materials, or vehicles are permitted within the tree protection fencing.
**62.1-9: Tree Removal**

(7/01)

1. **Permits Required** - No person, directly or indirectly, shall remove any regulated or specimen (11/04/19) tree from public or private property without first obtaining a tree removal permit from the County Zoning Administrator. A tree removal permit is required before any clearing, grading or other authorizations may be issued including soil and sedimentation control permits and building permits. An approved tree removal permit for new construction shall apply to the entire site. A tree removal permit may be either attached to the submitted site plan or the site plan may be clearly marked for either approval or denial.

2. **Procedure** - Applications for tree removal permits shall be submitted to the County Zoning Administrator on forms prepared by the County. The Zoning Administrator shall review all complete applications for tree removal permits and act to grant or deny the permit in accordance with this section within 5 working days of submittal. In applying the provisions of this article, the applicant shall follow normal landscaping practices and may seek technical assistance from landscaping or horticulture professionals, as appropriate.
   
   (A) The removal of any specimen tree is prohibited on any parcel unless exempt according to this Article. (11/04/19)
   
   (B) Landowners may request a variance from the Zoning Board of Adjustment related to the removal of specimen trees when site specific conditions meet the criteria for a variance according to Article XII. (11/04/19)

3. **Waivers, Exemptions and Exceptions**
   
   (A) The County Zoning Administrator may waive this section during an emergency such as a hurricane, tornado, windstorm, tropical storm, flood or other natural disaster.
   
   (B) If any regulated tree, including specimen trees (11/04/19), shall be determined to be in a hazardous condition so as to (1) immediately endanger the public health, safety, or welfare, or (2) cause an immediate disruption of public services, the Zoning Administrator may authorize the removal of the tree without a written permit. Following removal, the Zoning Administrator may determine that replacement with additional trees is necessary. In making such determination the Zoning Administrator shall utilize such professional criteria and technical assistance as may be necessary.
   
   (C) The Zoning Administrator may permit or require a reduction in required street yards, landscape islands, foundation plantings, setbacks, or other dimensional, parking, or landscaping standards for the purpose of retaining significant or specimen trees. (11/04/19)
Criteria for Permits - Tree removal permits shall be issued upon a determination by the County Zoning Administrator that the application complies with all applicable standards of this section and that any of the following conditions exist:

(A) That essential site improvements cannot be accommodated on the site without the removal of regulated trees;
(B) The regulated tree is dead, severely diseased, injured, or in danger of falling close to existing or proposed structures; For those regulated trees which meet or exceed the definition of "SIGNIFICANT" Tree, their removal must be mitigated as directed in Section 62.1-3. If the tree is determined to have died or is significantly damaged as a result of natural disaster then no mitigation will be required unless the tree is needed to meet the minimum number required on the site;
(C) The regulated tree is causing disruption of existing utility service or causing passage problems upon the right-of-way;
(D) The regulated tree is posing an identifiable threat to pedestrian or vehicular safety;
(E) The regulated tree violates state and local safety standards;
(F) Removal of the regulated tree is necessary to enhance or benefit the health or condition of adjacent trees or property;
(G) The removal of any SIGNIFICANT Tree as defined by this Ordinance must be mitigated in accordance with the following standards:

1. The total caliper inches of all significant trees proposed for removal shall be totaled and doubled. The resultant number of caliper inches must be planted back on the site with 2-3" caliper trees as a minimum.
2. If in the determination of the Zoning Administrator, the site cannot accommodate the required numbers of trees, then only the amount of trees which can be accommodated on the site will be replaced and the remainder of caliper inches shall be mitigated through a payment in lieu of providing on-site trees. This payment shall be made into the County Tree Improvement Fund to be used for plantings of public spaces in the general vicinity of the project. The amount of the payment shall be in accordance with the pricing standards in the County Fee Schedule. (11/04/19)
3. Any mitigation trees required as a result of the removal of significant trees shall not be counted to meet the requirements of the bufferyard, buffers or interior parking requirements. These trees must be provided in addition to any tree required by this section.

Failure to obtain a tree removal permit prior to any timber harvest may result in a three or five-year delay in obtaining a building permit or approval of any development or subdivision plan. (2/06/06)
Specimen Tree Removal Penalty – If a specimen tree is removed without a permit, the penalty for this violation shall be twice the mitigation fee. (11/04/19)

62.1-10:  Street Yard Landscaping

(1) A street yard, as defined herein, must be provided for new construction of principal structures or for expansions to existing structures or used whenever additional off-street parking is required. However, no street yard improvements shall be required for those portions of lot frontage used for driveways constructed in accordance with County or State driveway regulations.

(2) It is intended that street yards be landscaped by meeting the following requirements:
   (A) For every 600 sq. ft. of streetyard area, the streetyard shall contain:
       One Canopy/Shade tree, (3”caliper) minimum or 3 understory story trees, six ft. in height, only when overhead power lines exist above the streetyard; and
       Six shrubs, 12” in height at planting.
   (B) Areas designated for stormwater functions except piped areas shall not be included in the calculation of streetyard square footage. (10/7/13)

(3) Walkways, sidewalks or other bicycle and pedestrian facilities, fountains, walls or fences, and transit amenities shall be permitted within the streetyard, however, parking areas shall not be permitted. (10/7/13)

(4) If there are existing trees in the proposed streetyard, the County Zoning Administrator may grant credit toward meeting tree preservation requirements, provided their caliper is at least 2” or more. In addition, the Zoning Administrator may require the saving of any regulated tree in the streetyard area. On a case-by-case basis, the Zoning Administrator or their designated agent may approve alternative planting materials or substitutions to streetyard planting requirements where requirements would not be practical because of existing vegetation. Such substitutions must be determined to be in keeping with the purpose and intent of this section. (10/7/13)

(5) The Streetyard area is calculated by:

   Step One:  Multiplying the designated streetyard factor in accordance with the zoning designation of the property by the linear street frontage of the property less the road fronting width of any access drives within the streetyard to determine the base streetyard area;

   Step Two:  Subtracting the area of any walkways, sidewalks or other bicycle and pedestrian facilities, and transit amenities from the base streetyard area to get the total required streetyard area.

The applicant may install the streetyard in any configuration that provides the required amount of streetyard square footage between the property line and any
site improvements. The maximum and minimum widths as listed in the following table may not be exceeded in any portion of the streetyard. (10/7/13)

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Streetyard Factor</th>
<th>Max</th>
<th>Min</th>
</tr>
</thead>
<tbody>
<tr>
<td>B-2, I-1, I-2, A-1</td>
<td>25</td>
<td>37.5</td>
<td>12.5</td>
</tr>
<tr>
<td>B-1, O&amp;I, EDZD, High Density</td>
<td>18</td>
<td>27</td>
<td>9</td>
</tr>
<tr>
<td>Non-Residential uses in Residential Districts</td>
<td>12</td>
<td>18</td>
<td>8</td>
</tr>
</tbody>
</table>

(6) The applicant may choose to increase the streetyard multiplier up to 25% above the stated factor and receive an equivalent reduction in the building's front yard setback.

(7) For all lots recorded prior to the adoption of these requirements that are two acres or less, if the Zoning Administrator determines that the essential site improvements cannot be accommodated under these requirements, then the required streetyard square footage may be reduced by ½, but in no case shall be less than one half.

(8) Streetyards shall be required along all street frontage. For sites with 2 or more street frontages only the primary street frontage shall contain the full amount of streetyard as indicated in the table. All secondary street frontages shall contain ½ the required square footage amount.

62.1-11: Foundation Plantings

(1) For all portions of buildings which are adjacent to parking facilities or internal drive isles, Foundation Plantings shall be required and located between the buildings face and the parking or drive isle. The minimum standards are required; however, it is encouraged that sites exceed the minimum whenever possible. The following minimum standard shall apply:

(A) The area of the building face adjacent to the parking area or internal drive isle shall be computed and multiplied by a minimum of 12%. The resultant total sq. footage shall be planted as landscaped areas of sufficient variety, height and size, with plantings listed in the "Tree and Plant Materials for Landscaping"

(B) Exemptions from this requirement may be granted when the following circumstances exist or when any of the following conditions are proposed on the site:

(2) For those portions of buildings which have drive-up services along the side of the building (i.e. pharmacies, banks, fast-food, dry-cleaners, photo shops, etc.)
(3) On the rear side of a building when less than 10% of the total required parking is located in the rear of the building and the rear is not adjacent to any public right-of-way.

62.1-12: Landscaping for Expansions to Existing Principal Structures or Uses

For expansions to existing principal structures or uses, the following table shall be utilized in calculating the landscaping upgrade required for the previously developed portions of the site (up to the maximum landscaping required). All newly developed portions of the site shall be subject to the full landscaping requirements of this section. For expansions where options are listed for streetyard and parking facility landscaping, the higher standard shall be utilized except where the County has determined that practical difficulties in site development exist in which case the lower standard will be required.

<table>
<thead>
<tr>
<th>Expansion</th>
<th>Trees</th>
<th>Streetyard</th>
<th>Interior Landscaping</th>
<th>Bufferyard</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-25% Increase in gross floor area or vehicular use area; or 5-20 new parking spaces as required</td>
<td>15 per acre</td>
<td>1/2 the required width for new construction</td>
<td>4%</td>
<td>Fence or 1/2 the required width for new construction</td>
</tr>
<tr>
<td>26-50% Increase in gross floor area or vehicular use area; or over 10,000 sq. ft. increase in gross floor area; or 21-50 new parking spaces as required</td>
<td>15 per acre</td>
<td>Full width; or 1/2 the required width for new construction</td>
<td>4% or 6%</td>
<td>Fence and 1/2 the required width for new construction</td>
</tr>
<tr>
<td>Greater than 50% increase in gross floor area or vehicular use area; or over 20,000 sq. ft. increase in gross floor area; or more than 50 new parking spaces as required</td>
<td>15 per acre</td>
<td>Full width required for new construction</td>
<td>8%</td>
<td>Full width as required for new construction</td>
</tr>
</tbody>
</table>

(1) When a subdivision of previously developed property occurs and a building permit for new construction is obtained for any newly created parcel; within 2 years of the date that the final subdivision plat was approved, all parcels of the original tract shall comply with the above provisions for expansions to existing structures or uses.

(2) For consecutive expansions occurring within any 2-year period, the amount of the expansions shall be summed and the maximum landscaping requirements for the total extent of the expansions shall be provided.

(3) Notwithstanding the above requirements, expansions to existing structures or uses amounting to no more than a total of 500 sq. ft. of gross floor area over a 2-year period shall be exempt from the streetyard and landscaped parking requirements.
62.1-13: **Authority to Treat or Remove Trees on Private Property**

(1) The County Zoning Administrator may cause or order removal of any tree or part thereof on public or private property which is in an unsafe condition, damaging to sewers or other public improvements facilities, or infested by an injurious fungus, disease, insect or other pest.

(2) The County Zoning Administrator may cause or order necessary treatment for any tree on public or private property which is infested by any injurious fungus, disease, insect or other pest when he determines such action is necessary to prevent the spread of any such injurious condition or pest and to prevent danger there from to persons or property or to vegetation planted on adjacent property.

(3) Before exercising the authority conferred by this section, the County Zoning Administrator shall order the owner or occupant of the property to take corrective action. The order shall be in writing and shall state that the action specified then must be taken within 10 consecutive calendar days after the order is mailed. If the condition has not been corrected within the time specified above, the Zoning Inspector may enter upon the property; perform the work necessary to correct the condition and bill the owner or occupant of the property for the actual costs incurred. The costs of such work if not paid, shall constitute a lien against the property.

(4) No foliage shall be allowed to extend from public or private property into any portion of a street right-of-way below a height of 8 ft. above the grade of the sidewalk at the property line or if no sidewalk grade has been established the height shall be measured vertically above the center of the roadway. The Zoning Administrator may cause or order corrective action to prevent any such condition from existing. (7/01)

**Section 62.2: Tree Retention**

(10/6/08)

62.2-1: **Purpose**

New Hanover County enthusiastically supports new development that protects and preserves the natural assets which make our area so desirable as a place to live, work and recreate. Old growth native species trees are an important natural asset.

The County recognizes the value and benefit of mature trees in protecting, preserving and enhancing quality of life for present and future citizens. Some of the many benefits of tree preservation include:

- Conservation of energy by shading buildings and paved surfaces
- Filtering of airborne pollutants
- Removal of atmospheric carbon dioxide
- Reduction of stormwater runoff
- Slowing of flood waters
- Recharging of groundwater
• Protecting the cultural and historic character of the area
• Increasing the value of homes and businesses

Certain trees have been determined to be “significant” to our area and therefore are protected.

62.2-2: **Tree Removal in General**
The removal of significant or regulated trees on any lot or parcel requires a tree removal permit or a letter of exemption from the County Zoning Administrator. For particular requirements when clearing occurs in conjunction with development proposals, see Section 62.1-9 of this ordinance. When tree removal is proposed without a companion development proposal, the following shall apply:

62.2-2.1: **Application**
Application for a timber harvest permit must include a tree survey indicating the details outlined in 62.1-8(4) (C) or proof of exemption in accordance with NCGS 153A-452 as outlined in section 62.2-2.3.

62.2-2.2: **Regulated Trees to be retained**
Regulated trees must be retained and protected during the permitted tree harvest within a fifty (50) foot perimeter of the property. All Significant trees shall be retained.

62.2-2.3: **Exemptions**
   (1) Properties which are use-valued for forestry or those for which a forestry management plan prepared by a registered consulting forester is presented. To qualify for exemption, a forestry management plan shall ensure the proper regeneration of forest stands to commercial levels after the harvest of timber.
   (2) Any lot of record as of the adoption date of this ordinance which is less than one acre in size and which is located in a residential zoning district shall be exempt from the provisions of this section.

62.2-2.4: **Tracking**
   (1) The Zoning Administrator will forward copies of tree removal permits or letters of exemption to the Planning and Land Use Director.
   (2) Any property proposal which requires subdivision approval, building permit approval or commercial or special use site plan approval, and all proposals for rezonings will be required to submit with the application, a copy of any approved tree removal permit or letter of exemption issued within three (3) years prior to the application date.

62.2-3: **Penalty-Withholding of Permits**
After the date of adoption of this section, failure to obtain a tree removal permit from New Hanover County prior to removal of any regulated or significant tree or any timber harvest on property will result in the following:

   (1) A building permit, site plan approval or subdivision plan approval shall be denied, subject to the following:
(A) a period of three (3) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all regulated or significant trees from the tract; or

(B) a period five (5) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the regulated or significant trees from the tract if the harvest was a willful violation of County regulations.

(2) This enforcement provision shall run with the land. Therefore, change of ownership does not alleviate the penalty for unauthorized cutting of trees.

Section 63: Additional Restrictions Imposed on Uses Permitted by Right

Section 63.1: Temporary Buildings/Uses

In any zoning district temporary structures, as set forth below, which are to be used in connection with the development and sale of a tract of land may be erected or located on said tract prior to and may remain thereof during the construction or development period.

Section 63.1-1: Temporary buildings or trailers may be used as construction offices, field offices or for storage of materials to be used in connection with the development of said tract, provided that said temporary structures are removed from said tract within thirty (30) days after completion of the project development, after voluntary suspension of work on the project or development, after revocation or expiration of building permit or an order by the Building Safety Director upon a finding that said temporary structure is deemed hazardous to the public health and welfare. Such temporary buildings or trailers may not be used as a dwelling unit. (8/7/89)

Section 63.1-2: Temporary real estate offices or sales offices may be established in a display dwelling unit or temporary building provided that said offices are closed and the operation discontinued and all temporary structures and facilities are removed from the tract upon the completion of the sale, rent or lease of ninety-five (95) percent of the dwelling units or lot of said tract.

Section 63.1-3: No temporary buildings or trailers shall at any time be located closer than twenty-five (25) feet to a property line of any adjacent property, notwithstanding the required setbacks of the zoning district in which such temporary building or trailer is located. (9/7/76)

Section 63.1-4: Temporary Uses and Activities Not Elsewhere Classified - Other temporary activities as noted in the table below shall be permitted subject to the table of permitted uses and a provision of adequate sanitation facilities pursuant to Health Department regulations as applicable and the requirements of the Table. (7/6/92)

63.1-4.1: Process for establishing Temporary Use / Building – Approval for temporary use/building shall follow procedures for establishing a zoning permit. Annually, applicants shall submit a zoning permit application accompanied by a site plan and include all
pertinent information for the operation of the temporary use /building. Parking shall be in accordance with Article VIII of the zoning ordinance. (6/4/2012)

<table>
<thead>
<tr>
<th>USE</th>
<th>DURATION PER CALENDAR YEAR</th>
<th>PERMITTED DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christmas tree sales Pumpkin sales 6/93</td>
<td>45 Days</td>
<td>All Commercial, Office, &amp; Industrial Districts</td>
</tr>
<tr>
<td>Special fund raising for non-profit organizations</td>
<td>45 Days (6/4/12)</td>
<td>All Districts</td>
</tr>
<tr>
<td>Evangelistic and religious assemblies not conducted at a church</td>
<td>14 Days</td>
<td>All Districts</td>
</tr>
</tbody>
</table>

Section 63.1-5: Standards for Temporary Farmers Markets or Produce Stands in Residential Districts

Open lot sales of farm produce and related products may be allowed by right as a temporary use in all residential zoning districts when all of the following standards are met:

(1) Sales are limited to a cumulative total of no more than 60 days per calendar year.

(2) In the case of a Farmers Market, all vendors must be original producers of items for sale. Eligible products for temporary farmers markets or produce stands are fruits, vegetables, herbs, flowers, eggs, meats, seafood, cheese, baked goods, jellies and jams, honey, and handmade crafts, consistent with NC Food and Drug Protection Agency and the Department of Agriculture, and all other federal, state and local laws relating to the production and selling of such goods. A minimum of 75% of the products displayed and offered for sale must be directly linked to farm products, and documentation of how these standards will be met shall be specified on the submission for zoning approval.

(3) The proposed time schedule and duration of the use must be specified on the submission for zoning approval.

(4) Minimum lot size shall be no less than 1 acre for produce stands and 2 acres for farmers markets.

(5) The site shall front on a collector or arterial roadway.

(6) Approved NCDOT driveway permit is required.

(7) Ingress, egress, circulation, and parking plans shall describe measures proposed to assure safety and minimize traffic impacts on surrounding areas.

(8) Adequate solid waste disposal methods must be provided for vendors and customers

(9) Only temporary signage shall be allowed for these temporary uses. A maximum of two (2) temporary signs shall be allowed on site to advertise for the market as a whole.
   a. Temporary signage consistent with the permit may be installed no more than 2 days prior to the start of market activities and shall be removed at the conclusion of operating hours.
   b. Individual signs shall not exceed 35 square feet in sign area. All permitted signs shall have a maximum height of 6 feet and shall be setback a minimum of 10 feet from any property line.
   c. Illumination of signage is prohibited.
(10) Parking Requirements
   a. One (1) parking space is required for every eight hundred square feet (800) of gross market area. Except that a minimum of two spaces is required. Spaces shall meet the minimum size requirements as identified in New Hanover County Zoning Ordinance, Section 80-6: Off-Street Parking Design and Space Size.
   b. Parking shall be provided on the same site as the Farmers Market or produce stand, or may be located off site provided that it is within four hundred (400) feet of the main entrance of the market. If parking is provided off of the primary parcel, then a written parking agreement between the responsible party and the parcel owner shall be provided prior to the issuance of any permit. Adequate and safe ingress and egress shall be provided by the Farmers Market Management or the property owner.
   c. All parking must occur in designated areas. No parking shall occur in any unimproved parking surfaces such as, but not limited to landscape parking islands, medians, or open/passive recreation space.

(11) A site layout showing the proposed marketing area (vendor spaces, staging, sales and display areas, and customer promenades), parking, traffic circulation, lighting, waste disposal method, signage and other site amenities must be submitted for approval.

(12) Tents or other shelters must meet fire safety codes and shall be disassembled after market hours of operation. Tents shall be located so that they will not interfere with the normal operations of any permanent use on the property.

(13) The proposed location may not be part of designated recreation, open space or common area in an approved residential subdivision.

(14) Restroom facilities for the public may be required for compliance with NC Building Code.

(15) If structures are proposed or required, the plan shall be reviewed for compliance with the Americans with Disabilities Act and other building codes.

(16) Live animals or birds shall not be sold or displayed.

(17) No bands, amplified music or other entertainment shall be allowed.

(18) No concessions for consumption on site and no cooking of products shall be allowed on the site.

(19) No alcohol products shall be allowed.

(20) Any proposal for a permanent farmers market or produce stand, and any temporary farmers market or produce stand proposing to exceed the standards or limitations outlined in this section may be allowed at the discretion of the Board of County Commissioners only upon issuance of a Special Use Permit under the terms and conditions outlined in Article VII of this ordinance. (12/10/10)

**Section 63.2: Accessory Building / Use**

63.2-1: No accessory building shall be erected in any required yard nor within five (5) feet of any other building except that accessory buildings not exceeding 600 sq. ft. (9/4/84) may be permitted in the required side and rear yards provided such accessory buildings are at least five (5) feet from any property line and do not encroach into any required easements. Accessory buildings not
exceeding 50 square feet and use exclusively to house well and pump equipment may be permitted in the required front, side and rear yards, provided such accessory buildings are at least five (5) feet from any property line and do not encroach into any required easements or sight angles. (1/4/88) An accessory building or use may be located on another contiguous or noncontiguous lot from the principal use with which it is associated, only to the extent that the principal use itself would also be permitted on such lot. (9/12/83)

63.2-2: Retention and detention facilities serving nonresidential development shall be permitted on contiguous residential tracts abutting the development served provided: (7/04)

1. There is no encroachment of the commercial activity onto the adjacent residential site, and
2. provided the adjacent residential property is in the same ownership as the commercial tract and
3. The residential site is not part of an existing residential subdivision except in the case of shared stormwater facilities.
4. The stormwater facility shall be setback twice the corresponding residential minimum side or rear yard measured from the top of the slope to the adjacent property line. A minimum 20' bufferyard within the setback shall be provided.
5. The stormwater management facility shall be constructed as an aesthetic amenity with maximum slopes of 5:1.
6. If fencing of the facility is necessary, then it shall not be chain link.

63.2-3: Detached accessory dwelling units shall be allowed in districts where permitted by right, subject to the following requirements:

1. Only one accessory apartment shall be permitted by right.
2. Area sufficient for two off-street parking spaces shall be required.
3. Proof of adequate water and sewer capacity from the appropriate provider (CFPUA, etc.) shall be provided if accessory units are not included in subdivision approvals.
4. In the RMF districts, accessory apartments shall only be allowed when constructed in connection with any single family detached development allowed within the district.
5. For detached accessory units,
   a. In conventional subdivisions, the subject lot must exceed the minimum lot area of the applicable zoning district by at least 50% or 5,000 square feet, whichever is less;
   b. In performance subdivisions, accessory units shall be considered a dwelling unit for density requirements, and new accessory units may not increase density beyond the maximum allowed in the applicable zoning district.
   c. The entire accessory unit shall not exceed 50% of the gross total enclosed heated square footage of the existing single-family dwelling or 1,200 feet, whichever is less.
   d. The side setbacks for the detached unit shall be no less than required for the principal structure and a minimum of 5 ft.
   e. Rear setbacks for the detached unit shall be a minimum of 5 ft.
f. The detached unit shall be located completely behind the plane of the rear façade of the principal structure unless constructed over a detached garage.

(7/1/2019)

Section 63.3: Waste Facilities

Section 63.3-1: Sewage Treatment and Collection Systems

(2/16/87)

(A) All sewage disposal and collection facilities shall be designed and installed in accordance with the standards and requirements set by the County and appropriate local or State agency. (8/3/87)

(B) Non-County centralized sewage treatment systems shall be located only in those districts in which the use they are serving is permitted. However, Non-County sewage treatment systems serving uses in more than one district may be located in any of those use districts. (8/3/87)

Section 63.3-2: Junk Yard and Scrap Processor

63.3-2.1: A junk yard or scrap processor may be permitted in the I-2 District subject to the requirements of the district and provided that:

(1) The minimum front yard shall be at least one hundred (100) feet from any street right-of-way.

(2) All open storage shall be screened by the use of natural objects, plantings, fences, or other appropriate means so as not to be visible from streets and/or adjacent properties; and

(3) No junk yard or scrap processor shall be established within five hundred (500) feet of any residentially zoned or developed area. (1/5/81)

63.3-2.2: Storage of Inoperative Motor Vehicles in Residential Zoning Districts

It shall be unlawful for any person to store, keep or maintain more than one (1) inoperative motor vehicle in any residential district. Vehicles exceeding this number shall be removed within ninety (90) days of the effective date of this amendment. (11/3/86)

Section 63.3-3: Demolition Landscape Landfills

A site plan for a proposed demolition landscape landfill shall be submitted to the County Environmental Management and the County Planning and Land Use Department for review and approval. The site plan shall be submitted in accordance with North Carolina Solid Waste Management Rules, Section .0500, adopted April 1, 1982 and as thereafter amended. (3/2/87) (3/4/91)

63.3-3.1: Purpose
The following regulations are designed to accommodate demolition - landscape landfills in order to:

(1) Maintain the aesthetic quality, visual character and overall harmony of the area;

(2) Promote the maintenance of the area’s environmental integrity and the overall health, safety, morals and welfare of the community by providing a review mechanism to ensure demolition-landscape landfills are designed and developed in compliance with local regulations as well as those set forth by the Department of Environment, Health and Natural Resources, Division of Solid Waste Management Branch, 10 NCAC 10 G, as amended.

63.3-3.2: **Applicability**

Compliance with the provisions set forth below shall apply to all proposed landfill sites as defined in Section 23-85 of this Ordinance; except that the disposal of naturally occurring materials such as stumps, limbs, leaves, and dirt, that are generated on-site during the construction of residential projects may be permitted provided the material does not exceed one-half (1/2) acre foot and complies with the locational controls set forth in Subsection (1) below.

(1) **Locations** - No demolition landscape landfill shall be located within 500 feet (in a horizontal distance) of any residence, church, school and/or place of assembly nor within 100 feet in a horizontal distance from any stream, creek, canal, marsh, estuarine waters, lake, river and/or impoundment. The filling of lower lying areas with demolition landscape materials may be subject to Army Corps of Engineer's 404 permits and the Division of Coastal Management's major CAMA permit.

(2) **Access** - All demolition landscape landfills shall have access from a platted and recorded road and each site shall be accessed only through an arterial or collector street.

(3) **Buffering** - A buffer shall be required which shall consist of a minimum of three (3) rows of vegetation in accordance with Section 62 of this Ordinance or earthen berms with screening plants of sufficient height to screen the landfill area from view. Protected trees need not be retained within disposal area.

(4) **Sedimentation and Erosion Control** - The developer/owner shall be responsible for obtaining a Sedimentation and Erosion Permit.

(5) **Height** - Demolition landscape landfills shall not exceed thirty (30) feet in height with side slopes not to exceed a 3:1 ratio.

(6) **Signage** - One (1) temporary sign not exceeding thirty-two (32) square feet in area erected on the site during the period of landfilling activity is permitted. The sign is to include the owner/operator's name and telephone number and the hours of operation. Upon cessation of the landfill, the sign shall be dismantled and removed with the exception of...
the landfill closure notification sign which shall be removed six months after closure.

63.3-3.3: Site Plans

A detailed site plan for each demolition landfill shall be required. At a minimum, the site plan should show the following:

1. Owner’s name, address, phone number
2. Scale no smaller than 1” = 200'
3. Vicinity or location map
4. North arrow and date
5. Boundary line of parcel to be used with angular and linear distances
6. Tax map, block and parcel number
7. Total acreage to be used for landfill purposes
8. Total acres located below the 100 Year Flood Plain
9. Linear distance to the nearest residence, church, or place of assembly; and linear distance to nearest stream, river, creek, marsh estuarine water, lake, pond, or impoundment
10. Drainage plan
11. Buffering per Section 62 of the Zoning Ordinance and Subsection (3) above
12. Sign location and dimensions

63.3-3.4: Permits

In accordance with the Department of Environment, Health & Natural Resources, Division of Solid Waste Management Branch, 10 NCAC 10 G, the applicant shall obtain an approval letter from the Director of Planning and Land Use of New Hanover County having zoning authority over the area where the site is to be located. A letter of approval issued by the Building Safety Office shall enable the applicant to apply for a demolition landfill permit per the requirements set forth in Section .0201 of the North Carolina Solid Waste Management Rules.

63.3-3.5: Recordation of Disposal Site

After obtaining all necessary permits, the owner/developer shall have prepared a legal description that would be sufficient as an instrument of conveyance of the property. This description, along with a site map and a certified copy of applicable permits shall be filed for recordation with the Register of Deeds. The documents shall be filed under the name of the owner and shall specifically state that the site was granted a permit for disposal of demolition debris. After these documents have been properly recorded, a certified copy shall be filed with the County Building Safety Office. (8/3/87)

63.3-3.6: County Review
The developer/owner of the disposal site shall provide free and unobstructed access during normal operation hours to County officials charged with the administration of this Ordinance.

63.3-3.7: **Enforcement and Penalties**

In addition to the enforcement remedies of this ordinance, the operator shall also be subject to the penalties prescribed in Section .0700 of 10 NCAC 10 G.

63.3-3.8: **Existing Demolition Landscape Landfills**

All existing landfills that do not have a valid permit shall comply with these regulations immediately.

Section 63.3-4: **Recycling Facilities**

63.3-4.1: The following site requirements shall apply to the location of small and large facilities and processing facilities as defined in Section 23. These locational requirements for recycling facilities are designed to:

1. Maintain aesthetic quality and visual character while reducing litter.
2. Promote the availability of recycling sites while promoting the sound conservation and re-use of valuable resources,
3. Establish a review procedure which ensures collection and processing facilities are designed to maintain sanitary site conditions. These facilities may be located by right in some zoning districts and by special reduce land use conflicts and to promote harmony of development.

63.3-4.2: These facilities may be located by right in some zoning districts and by special use permit in other zoning districts. Before any collection and/or processing facility is established, when applicable a special use permit must be obtained from the Board of County Commissioners, and a building permit shall be obtained from the Director of Planning and Land Use for New Hanover County in accordance with the following criteria:

1. **Collection Facilities** - A small collection facility shall be permitted by Special Use Permit in the R-20, R-15. R-10, R-7, O&I, and by right in the B-1, B-2, SC, A-I, PD, I-1 and I-2 Districts, subject to the district requirements and the following:
2. (A) The facility may not exceed 500 square feet in size.
(B) The facility shall be limited to receiving only paper, glass, metal and plastic recyclable products.

(C) The facility may be located on a host tract, provided it does not occupy needed parking of the principal use.

(D) The facility shall be set back at least ten (10) feet from any street right-of-way and provide streetyard plantings in accordance with section 62.1-10.

(E) The facility shall be located at least one hundred (100) feet from any residentially zoned property line.

(F) The facility shall be buffered from adjacent residential lots or districts in accordance with section 62.1-4.

(G) No power-driven equipment is allowed except collection trucks.

(H) Containers shall be constructed of durable, waterproof and rustproof materials.

(I) No material storage outside the container is allowed.

(J) Signs: The storage container may have an identification logo not exceeding 10 square feet.

(K) At least one (1) parking space shall be designated for attendants.

(L) The name, address, and phone number of the organization and/or persons responsible for pick-ups and maintenance of the facility shall be displayed on the container. The site must be monitored daily to maintain sanitary conditions.

(M) The facility shall not reduce the landscaping required for any concurrent use.

(N) A site plan shall be submitted illustrating the above before a permit can be issued by the Building Safety Department.

2. **Large Collection Facilities** - These facilities may be located by right in all industrial districts and the B-2 Business District and by special use permit in the B-1, O&I, R-20 and R-15 districts subject to the district requirements and the following standards:

(A) The facility may be larger than 500 square feet and on a separate property or tract of land.

(B) Facilities permitted by special use permit shall be limited to receiving only paper, glass, metal, and plastic recyclable products. The site must be monitored daily to maintain sanitary conditions.

(C) The facility and its appurtenant uses shall not be located closer than one hundred (100) feet to any residentially-zoned property. All landscaping shall be in accordance with Section 62 of this Ordinance.

(D) All loading and outside storage shall be to the side and/or rear of the building. Storage or loading conducted on the side of the building shall be screened from view from the adjacent right-of-way. All exterior storage shall be in containers or under shelters which are covered and
secured. No outside storage shall be visible from the residentially-zoned property.

(E) The facility may not operate between the hours of 7:00 p.m. and 7:00 a.m. when adjacent to residentially-zoned property.

(F) A site plan illustrating the above shall be submitted before an occupancy permit is issued by the Building Safety Department.

(3) **Processing Facilities** - Processing Facilities may be permitted in the I-1 and I-2 Industrial Districts and by special use permit in the A-I Airport Industrial District, subject to the district requirements and the following:

(A) The facility and its appurtenant uses shall not be located closer than one hundred and fifty (150) feet to any residentially-zoned properties.

(B) The facility shall meet the applicable setback requirements of Section 60.3 and landscaping requirements of Section 62.

(C) Power-driven equipment is permitted.

(D) All loading and exterior storage shall be to the side or rear of the building. Storage or loading conducted on the side of the building shall be screened from view from the adjacent right-of-way. All exterior storage shall be in containers or under shelters which are covered and secured. It shall not be visible to residentially zoned property.

(E) The facility shall not emit dust, smoke fumes or vibrations detectable on adjacent properties.

(F) A site plan shall be submitted illustrating the above items to the Building Safety Department before a building permit is issued. (1-03-89)
Section 63.4: Residential Uses

Section 63.4-1: Family Uses

All existing family uses shall conform with the new definition of Family, Section 23-12 by June 5, 1990. (11/6/89)

Section 63.4-2: Residential Care Facility

A residential or family care facility shall not be located within 2000 feet radius of an existing residential care home. (3/2/87)

Section 63.4-3: Fraternities/Sororities, Residential

Residential fraternities and sororities as defined in Section 23.93 may be permitted in accordance with the location criteria established for High Density Development as delineated in Section 72-43 and provided that:

1. The lot size shall be no less than twenty thousand (20,000) square feet for new construction and no less than fifteen thousand (15,000) square feet for the conversion of existing buildings;
2. The usable floor space shall be no less than two hundred and fifty (250) square feet per resident;
3. The off-street parking requirements in this Ordinance be met; and
4. The fraternity or sorority parking lot shall be provided with a continuous visual buffer with a minimum height of six (6) feet. The buffer shall be a combined fence and evergreen hedge or shrubbery screen. (6/18/90)

Section 63.4-4: Single Family Dwelling-Attached

(7/1/2019)

In the R-5 District, attached single family dwellings shall be limited to 3-unit and 4-unit structures, excepting row or townhouses.

Section 63.5: Utilities

Section 63.5-1: Telecommunication Communication Facilities, Cellular and Related Towers

(1/4/10)

(A) Except for amateur radio antenna up to 90 feet, any tower, antenna or related structure in any zoning district shall set back from any existing residential property line or residential zoning district boundary a distance equal to the height of the tower as measured from the base of the tower. In no case shall the setback for any tower, antenna or related structure be less than 50 feet.
(B) Where Special Use Permits are required, all of the following standards shall be applied, and all requirements must be met. Additional conditions may be determined to be necessary to mitigate negative impacts, and the permit should be approved only if all negative impacts can be mitigated. No reductions in setbacks may be granted for this use under Section 62.1-4 of this ordinance.

1. The minimum distance between the tower and any other adjoining parcel of land or road must be equal to the minimum setback described above, plus any additional distance necessary to ensure that the tower, as designed, will fall within the tower site.

2. The applicant shall provide simulated photographic evidence of the proposed appearance of the tower from four (4) vantage points and a statement as to the potential visual and aesthetic impacts on all adjacent residential zoning districts. The simulation shall include overall height; configuration; physical location; mass and scale; materials and color (including proposals for stealth structures); and illumination.

3. Concealed (stealth) or camouflaged facilities are encouraged when the method of concealment is appropriate to the proposed location. Attached stealth facilities may include but are not limited to: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers, or other architectural features that blend with an existing or proposed building or structure. Freestanding stealth facilities typically have a secondary, obvious function such as church steeple, windmill, silo, light standard, flagpole, bell/clock tower, water tower, or tree.

4. The proposed appearance of concealed or non-concealed facilities shall be evaluated for compatibility with the surrounding community prior to submission of the special use application. Applicants shall meet with Planning and Land Use staff for a preliminary review of proposed appearance in order to assure each facility will impose the least obtrusive visual impact.

(C) A landscaped buffer with a base width not less than 25 feet and providing 100% opacity shall be required within the tower site to screen the exterior of protective fencing or walls. The base of the tower and each guy wire anchor must be surrounded by a fence or wall not less than 8 feet in height.

(D) All applicants seeking approval for the construction of any new towers, antennas, and related structures shall submit written evidence in the form of a report to demonstrate that collocation on any existing tower, antenna or usable structure in the search area for the new tower is not
reasonable or possible. Technical data in the report shall include certification by a Registered Professional Engineer licensed in the State of North Carolina or other qualified professional, whose qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed telecommunication tower and accompanying maps and calculations demonstrating the need for the proposed tower. A map showing the search ring and an inventory of all structures investigated for co-location shall be included as well as a radio frequency analysis indicating the coverage of existing wireless communications sites, coverage prediction, and design radius, together with a certification from the applicant’s radio frequency (RF) engineer that the proposed network design is intended to improve coverage or capacity potential or reduce interference and the proposed facility cannot be achieved by any higher ranked alternative such as a concealed (stealth) facility, attached facility, replacement facility, co-location, or new antenna support structure.

(E) All towers shall be constructed to accommodate collocation. Towers over 150 feet in height shall be engineered to accommodate at a minimum two additional providers. Towers 150 feet or less in height shall be engineered to accommodate at a minimum one additional provider.

(F) All applicants seeking approval shall also submit a written affidavit from a qualified person or persons, including evidence of their qualifications, certifying that the construction or placement of such structures meets the provisions of the Telecommunications Act of 1996, the National Environmental Policy Act of 1969, FCC Rules Sections 1.1311, 1.1312, 1.1307 and all other applicable federal, state and local laws. The statement must certify that radio frequency emissions from the antenna array(s) comply with the FCC standards. The statement shall also certify that both individually and cumulatively the proposed facilities located on or adjacent to the proposed facility will comply with current FCC standards. In accordance with NCGS 153A-349.52(a), the County cannot base its permitting decision on public safety implications of radio frequency emissions of wireless facilities.

(G) Any tower and associated equipment which was lawfully constructed under the terms of the Ordinance, which is now considered a nonconforming improvement, may continue or be reconstructed as a conforming improvement even through the tower and associated equipment may not conform with the provisions of this Ordinance for the district in which it is located. Towers and associated equipment may only be enlarged and/or relocated if the enlarged or relocated tower eliminates the need for an additional tower, provides additional collocation opportunities on the tower, or provides additional antenna space on the tower; and provided further that the enlargement and/or relocation shall be in conformance with the following regulations and design limitations:
1. Tower height may not be increased by more than 15% of the originally constructed tower height. Increases in height greater than 15% will require a variance from the Board of Adjustment.

2. A tower shall be allowed to be reconstructed and relocated within the boundaries of the property on which it is located so long as the decrease in the setback does not exceed 15% of the originally constructed tower height and the relocated tower is sited to minimize any increase in the existing nonconformity. Any request to reconstruct and relocate the tower where the resulting decrease in setback exceeds 15% of the originally constructed tower height shall require a variance from the Board of Adjustment. (8/4/97)

(H) Cellular and PCS antennas attached to existing structures shall not add more than six feet to the overall height of a structure. (10/02)

(I) Signage:

1. Attaching commercial messages for off-site or on-site advertising shall be prohibited.

2. The only signage that is permitted upon a tower, antenna support structure, equipment cabinet, or fence shall be informational, and for the purpose of identifying (1) the antenna support structure (such as ASR registration number); (2) the party responsible for the operation and maintenance of the facility; (3) its current address and telephone number; (4) security or safety signs; (5) property manager signs for the tower (if applicable); and (6) signage appropriate to warn the general public as to the use of the facility for radiofrequency transmissions.

(J) Equipment Compound:

1. Shall not be used for the storage of any equipment or hazardous waste (e.g., discarded batteries) or materials not needed for the operation. No outdoor storage yards shall be allowed in a tower equipment compound.

2. Shall not be used as habitable space.

(K) Outside Experts and Disputes

1. Siting of telecommunications facilities may involve complex technical issues that require review and input by outside experts. Staff may require the applicant to pay the reasonable costs of a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal shall be at the sole discretion of the decision-making body.
2. If an applicant for a telecommunications facility claims that one (1) or more standards of this Ordinance are inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the decision-making body may require that the application be reviewed by a qualified engineer for a determination of the accuracy of such claims. Any costs shall be charged to the applicant.

(L) The applicant shall submit Form 7460 to the Federal Aviation Administration (FAA) to assure compliance with all FAA standards and to resolve issues of concern, including required lighting, possible transmission interference or other conflicts when the proposed tower site is located within ten thousand (10,000) feet of an airport or within any runway approach zone.

Section 63.6: Recreation

Section 63.6-1: Stables

A stable may be permitted in the R-20, R-15, and AR Residential Districts provided that:

(1) No stable shall be erected closer than one hundred (100) feet to any property line.

(2) A buffer in compliance with Section 62 be provided for the protection of adjoining residences. (3/2/81)

Section 63.6-2: Travel Trailers

Travel trailers shall only be located in approved travel trailer parks as regulated by the New Hanover County Mobile Home and Travel Trailer Park Ordinance or installed as temporary buildings in accordance with Section 63.1 of this Ordinance. (7/5/83)

Section 63.7: Erection of More Than one Principal Structure on a Lot

In any district, the Zoning Administrator may grant permission for more than one structure housing a permitted or permissible principal use to be erected on a single lot, provided that yards and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot. However, any parcel of land upon which are placed at least three (3) or more mobile homes shall be considered a mobile home park and regulated by the New Hanover County Mobile Home and Travel Trailer Park Ordinance. (3/7/83)
Section 63.8: Exceptions to Height Regulations

The height limitations contained in the Schedule of District Regulations do not apply to antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Section 63.9: Structures within Easement of Atlantic Intracoastal Waterway

The Building Inspector shall notify the United States Corps of Engineers of any application for a building permit to erect, enlarge or move any structure within the easement of the Atlantic Intracoastal Waterway.

Section 63.10: Electronic Gaming Operation (Sweepstakes)

Electronic Gaming Operations shall be permitted by right as an accessory use to other commercial operations permitted by right in the B-1, B-2, I-1 or I-2 Zoning Districts when the following standards are applied:
1. The operation is located within the same structure or unit as the principal use.
2. The maximum number of machines/terminals/computers per business unit is two (2) devices.
3. For situations in which there are multi-unit or multi-tenant commercial buildings and more than one unit wishes to include gaming operations, a special use permit meeting the standards of Section 72-40 is required. In no case can the cumulative total number of machines for a business center, multi-unit or multi-tenant building exceed ten (10).
4. Off-Street Parking shall include one additional space per machine over and above the normal parking standards for the uses, and all parking must comply with all other provisions of Section VIII of the Zoning Ordinance.
5. All legally operating gaming operations made non-conforming by adoption of this section shall be removed or brought into compliance with these provisions within 60 months of the date of adoption of this section. (5/3/10)

In the CB and CS districts, Electronic Gaming Operations are allowed as a primary use and are subject to the standards listed for accessory operations above. In addition, the standards outlined in Section 72-40 for operations allowed with a special use permit shall also apply to primary operations permitted by right. (7/1/2019)

A Recreational Vehicle and Boat Trailer Storage Lot may be located by right in the B-1, B-2, I-1, I-2, Office and Institutional, and Airport Industrial subject to the district requirements and provided that:
1. The use shall be solely open-air and ground level. No enclosing or overhead covering structures shall be installed.
2. Access shall be from a public or private street right of way.
3. A minimum buffer of twenty (20) feet shall be provided in accordance with the provisions of Article VI, Section 62 of the Ordinance for common boundary(ies) with residential zoning districts and/or uses.
4. Buffers and landscaping for streetyards and interior parking areas shall be provided in accordance with the provisions of Article VI, Section 62 of the Ordinance.
5. All site lighting shall be located so as not to shine or reflect directly onto any adjacent residential zoning districts and/or uses.
6. Repair, maintenance, or habitation of any recreational vehicle or boat stored in the facility is prohibited. (2/3/14)

Section 63.11: Group Homes

Group homes shall be permitted in accordance with the table of permitted uses in Section 50 and the following standards:

1. Group homes shall be limited to six (6) Disabled Persons living together as a self-supporting and self-sufficient household unit.
2. No group homes shall be occupied or operated without zoning approval.
   a. Group homes that are exempt from licensure pursuant to NCGS § 122C-22 must recertify their exemption status annually; and
   b. Group homes for special needs persons must recertify qualification of all residents as special needs persons annually.
3. Parking shall be provided in accordance with Article VIII: Off-Street Parking and Loading.
4. Group homes shall not be located closer than 2000 feet to any other existing group home, measured by a straight line from the nearest property lines, irrespective of municipal boundaries.
5. With respect to the distance between the proposed use and the existing, permitted uses described in subsection 4 above, the distance shall be reduced by the right-of-way of a major thoroughfare exceeding one hundred (100) feet, major topographical features such as a major watercourse, or by major nonresidential or public uses such as a park, school, or religious institution.
6. Special Exceptions
   a. Applicability. The Board of Adjustment is authorized to grant special exceptions for the special circumstances set forth in this section to allow for a reasonable accommodation under the Federal Fair Housing Act.
   b. Application. An application for a special exception under this section shall be submitted to the Board of Adjustment by filing a copy of the application with the Planning and Land Use Director or their designee. No filing fee shall be required for such application.
   c. Approval process. The procedures set forth in Section 121-3 for variances and appeals shall apply to Staff Review and Report, Public Hearing Notice and Action of the Board of Adjustment.
   d. Approval criteria. The Board of Adjustment shall grant a special exception to any provision of this ordinance as a reasonable accommodation under the Federal Fair Housing Act if the Board finds by the greater weight of the evidence that the proposed special exception is:
      i. "Reasonable." An accommodation will be determined to be reasonable if it would not undermine the legitimate purposes and effects of existing zoning regulations, and if it will not impose significant financial and administrative burdens upon the County and/or constitute a substantial of fundamental alteration of the County's ordinance provisions); and
ii. "Necessary." An accommodation will be determined to be necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability or handicap, and would afford handicapped or disabled persons' equal opportunity to enjoy and use housing in residential districts in the County.

Section 63.12: Temporary Relocation Housing

Temporary housing utilizing nonpermanent facilities for the displaced as a result of a natural or other disaster in a neighborhood or area shall be allowed provided they meet the following requirements:

1. The proposed location shall be within a disaster area with specifically defined boundaries and under specific conditions as determined by a federal Disaster Declaration where public or individual assistance is made available, or as determined by the County Manager.
2. Temporary accommodations for the displaced as permitted by this section shall not be installed for more than 12 months from the date of the declaration or determination, except as authorized by the Board of Commissioners.
3. Temporary housing units shall be removed from the site within thirty (30) calendar days after completion of the rehabilitation work which may include, but not be limited to, issuance of a Certificate of Occupancy, Certificate of Completion, or final inspection if this occurs prior to the 12-month expiration or Board authorization term.
4. All applicants for temporary housing units shall register with the Planning Department.
5. Temporary housing units may be subject to additional agency approvals which may include, but not be limited to, water supply, wastewater disposal, solid waste management and disposal, building permits, stormwater permits, or other utilities through the applicable regulatory office. Additional code requirements which may include, but not be limited to, building code and fire code shall be adhered to.
6. Temporary housing units shall comply with either the minimum National Flood Insurance Program standards as set forth in Code of Federal Regulations, Title 44 Part 60 or the Flood Damage Prevention Ordinance.
7. Each housing unit shall have a minimum setback of five (5) feet from any street right-of-way or property line.
8. For temporary housing units in a community or group setting, the following shall apply:
   a. All units shall be setback a minimum of twenty (20) feet from the perimeter of the site;
   b. A sketch plan showing the general location and estimated number of units, parking, access points and traffic circulation, and provisions for utilities including power, water supply, wastewater disposal, stormwater management, and solid waste management shall be submitted to the Planning Department.

Section 63.13: Retail Uses in the Community Business (CB) District
(7/1/2019)

The maximum footprint of retail structures in the Community Business (CB) District shall be 60,000 square feet.
Section 63.14: Restrictions on Outside Storage, Displays, and Activities
(7/1/2019)

A. In the CB district, the following restrictions apply:
   a. No more than ten (10) automotive vehicles may be displayed on an automobile renting
      and leasing lot.
   b. Outside storage areas are not allowed.
   c. All work associated with contractor operations shall be conducted entirely within
      enclosed structures.

B. In the CS district, outside storage areas must be screened in accordance with Section 62.1-4(3)
   of this ordinance.

C. In the R-5 and RMF districts, utilities must be screened in accordance with Section 62.1-4(3) of
   this ordinance, except that screening may be reduced if it completely screens the utility from
   view of the public right-of-way or adjacent property.

Section 63.15: Automobile Service Station
(7/1/2019)

A. In the CB district, the following additional restrictions apply:
   a. Automobile towing operations are not allowed.
   b. All repair work or lubrication shall be conducted within the principal building. All
      permanent storage of materials, merchandise, or repair and servicing equipment shall
      be contained within the principal building.
   c. No operator shall permit the storage of motor vehicles for a period in excess of 24 hours
      unless the vehicles are enclosed in the principal building.
   d. Service or customer vehicles shall be parked on the premises in a manner than will not
      create traffic hazards or interfere with the vehicular maneuvering area necessary to
      enter or exit the site.
   e. The premises shall not be used for the sale of vehicles.
   f. No outdoor work shall be performed except in areas designated for such activity on an
      approved site plan.
   g. Outdoor work areas shall be fenced, walled, or screened to minimize on-site and off-site
      noise, glare, odor, or other impacts.
   h. Additional buffering and screening may be required where such use is located in close
      proximity to residential or retail commercial uses.

Section 63.16: Churches
(7/1/2019)

A. In the R-5 and RMF districts, the following additional restrictions apply:
   a. Religious institutions up to 1,000 of fewer seats are allowed as long as:
i. Structures are limited to a sanctuary or similar main gathering facility that may also include individual rooms for administration, dining halls, and classrooms. Accessory structures for maintenance and storage purposes are permitted.

ii. Signs shall not be internally illuminated.

b. The following uses are prohibited without a special use permit:

i. Outdoor recreational facilities, except those associated with child care provided as part of the principal use. Such facilities shall be restricted to “tot lots” or similar play areas.

ii. Schools associated with the institution.

iii. Indoor recreation facilities such as basketball courts or similar facilities.

iv. Religious institutions with more than 1,000 seats, provided that such facilities shall only be allowed if direct access from a collector street or minor or major thoroughfare is provided.

c. Primary vehicular access to the use shall not be provided by way of a local residential street.

d. When a religious institution and any associated buildings, outdoor recreational facilities or off-street parking areas abut a single-family residential district or use, a buffer shall be provided along the side and rear yards.

B. In the CB and CS districts, the following additional restrictions apply:

a. Religious institutions are permitted with no seat limitations if located on a local street or minor or major thoroughfare.

b. Primary vehicular access to the use shall not be provided by way of a local residential street.

c. When a religious institution and any associated buildings, outdoor recreational facilities or off-street parking areas abut a single-family residential district or use, a buffer shall be provided along the side and rear yards.

Section 63.17: Commercial Parking Lots
(7/1/2019)

A. If outdoor, a 3-foot high buffer with a minimum depth of 10 feet shall be provided in the front yard to screen parking areas from the road.

B. Access shall be prohibited through residential areas.

C. Six percent of the gross parcel area shall be landscaped to the following standards:

a. Landscaped areas shall be evenly located around the perimeter of the parcel.

b. One tree and six shrubs shall be planted for every 15 parking spaces.

c. 50% of trees shall be of a shade/canopy variety.
Section 63.18: Dwelling Unit Contained within Principal Unit  
(7/1/2019)

When permitted by-right in a zoning district, the following additional restrictions apply:

A. The residential unit may be occupied solely by the person engaged in the principal use or a full-time employee, and their family members residing with them;

B. The site shall provide an area of open space unobstructed by any buildings, parking or structures equal to the floor area of the residential unit; said open space shall be in addition to any required yards or buffers and be located on the same lot as the principal use;

C. The amount of floor area for the residential unit shall be no more than 50% of the total floor area of the principal use;

D. The residential unit shall be located totally above the ground floor or totally to the rear of the principal use so as not to interrupt the commercial frontage; and

E. In addition to the require off-street parking for the principal use, 2 off-street parking spaces shall be provided for the residential unit.

Section 63.19: Kennels  
(7/1/2019)

Kennels permitted by-right in the CB and CS districts may only be allowed for commercial boarders and breeders, including “doggy daycare” uses and shall comply with the following requirements:

A. All pens shall be enclosed

B. The kennel facility shall be no closer than 100 ft. to any residentially zoned or used lot.

C. Limited outdoor exercise runs or facilities shall be permitted so long as their hours of use are restricted to the hours between 8 am and 5 pm.

D. The facility must be air conditioned.

E. Exercise runs of facilities shall be a minimum of 4 ft. by 10 ft.

F. The facility shall maintain a minimum total of 25 square feet of kennel area per animal. This area may be comprised of cage area, runs, or exercise facilities.

G. Any outdoor area used for animal containment or exercise shall be maintained by removing animal waste on a regular basis for proper disposal as outdoor solid waste and shall be separated by a vegetative buffer of not less than 50 ft. from any stream, delineated wetland, or other surface water features including wet detention ponds. In lieu of meeting these setback requirements, this provision can be met by implementing an approved stormwater control plan designed to maximize fecal die-off.

H. Any runoff, wash down water, or waste from any animal pen, kennel, containment, or exercise area shall be collected and disposed of in the sanitary sewer after straining of solids and hair and shall not be allowed to enter the stormwater drainage or surface waters. Strained solids and hair shall be properly disposed of as solid waste.
Section 63.20: Warehousing & Wholesaling
(7/1/2019)
In the CS district, warehousing, wholesaling, and/or other storage of live animals, explosives, and flammable gases or liquids is prohibited.

Section 63.21: Artisan Manufacturing
(7/1/2019)
Artisan food and beverage producers, including breweries, in the CB district, shall meet the following requirements:

A. One or more accessory uses, such as tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other incidental use open and accessible to the public shall be included.

B. Required parking shall be calculated based on the square footage proposed for each use.

C. Storage of materials, including silos, products for distribution, and other items requiring long-term storage shall be allowed in areas behind a building, within service alleys, in enclosed building, or otherwise screened from the public right-of-way, pedestrian way, and adjacent residential properties.

D. Off-site distribution via tractor trailer is only permitted if the truck traffic is limited to streets classified as arterials on the Wilmington Metropolitan Planning Organization Functional Classification Map.
ARTICLE VII: PROVISIONS FOR USES ALLOWED AS SPECIAL USES

Section 70: General Information, Applications, Process, Public Notice, Public Hearings, Review and Decision, and Conclusions Required for Approval

70-1: General

(1) Special Use Permits add flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses may be allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, property uses which would otherwise be undesirable in certain districts may be developed to minimize any negative external effects they might have on surrounding properties.

(2) Any use or development designated by applicable zoning district regulations as a special use, or as allowed only pursuant to a special use permit, may be established in that district only after the use or development is authorized by a validly issued special use permit.

70-2: Applications

(1) Applications for a Special Use Permit shall be submitted to the Planning and Land Use Director or their designee by the owner or owners, or their duly authorized agent, of the property subject to the Special Use Permit petition at least 20 business days prior to an adopted Planning Board meeting date. For Intensive Manufacturing uses, the application must be submitted at least 35 business days prior to the Planning Board meeting date. A schedule of adopted Planning Board meeting dates and the application deadlines shall be available at the Planning and Land Use Department. Any additional information, documents, etc. submitted after the application deadline must be submitted no later than 10 business days prior to the Planning Board meeting date to be included in the Planning Board agenda package. Additional information and documents may be submitted during the public hearings; however, as much information should be included with the application as possible to demonstrate that the four required conclusions for approval can be met.

(2) Applications for a Special Use Permit shall include the following to be considered a complete application:
   (A) Completed and signed application form for a Special Use Permit
   (B) Traffic Impact Worksheet
   (C) Traffic Impact Analysis (only applicable for development proposals that exceed 100 peak hour trip generation)
(D) Site Plan, including:
1. Tract boundaries and total area, location of adjoining parcels and roads.
2. Proposed use of land, structures and other improvements. For residential uses, this shall include number, height and type of units and area to be occupied by each structure and/or subdivided boundaries. For non-residential structures, this shall include approximate square footage and height of each structure, an outline of the area it will occupy and the specific purpose for which it will be used.
3. Development schedule including proposed phasing.
4. Traffic and Parking Plan to include a statement of impact concerning local traffic near the tract, proposed right-of-way dedication, plans for access to and from the tract, location, width and right-of-way for internal streets and location, arrangement and access provision for parking areas.
5. All existing and proposed easements, reservations, required setbacks, rights-of-way, buffering and signage.
6. The one hundred (100) year floodplain line, if applicable.
7. Location and sizing of trees required to be protected under Section 62 of the Zoning Ordinance.
8. The approximate location of US Army Corps of Engineers Clean Water Act Section 404 and Rivers and Harbors Act Section 10 Wetlands, and wetlands under jurisdiction of the NC Department of Environmental Quality.
9. Any additional conditions and requirements, which represent greater restrictions on development and use of the tract than the corresponding General Use District regulations or other limitations on land which may be regulated by Federal or State law or Local Ordinance.
10. Any other information that will facilitate review of the proposed change (Ref. Article VII, as applicable).

(E) A written description of proposal depicting the nature and scope of the proposed development, as well as information which provides support for each of the required conclusions identified in Section 70-7.

(F) At the discretion of the petitioner, supplemental information, plans, and/or documents that the petitioner intends to use to demonstrate at the public hearing that the conclusions required for approval in Section 70-7 are met.

(G) Authority for Appointment of Agent Form (only applicable if the petition for Special Use Permit is submitted by an agent for the property owner(s)).
(H) Application fee based on the adopted fee schedule.

(I) Community information meeting report for community information meeting per Section 111-2.1 (only for uses classified as Intensive Manufacturing).

(J) For proposed uses in the Intensive Manufacturing category only, the applicant shall identify, in the application, any local, state, or federal permit (other than the special use permit being sought in the application) which the applicant reasonably believes at the time of submitting the application will be required to be obtained before the applicant may legally engage in the proposed use. The applicant’s identification of permits shall include, but shall not be limited to, as applicable, permits pertaining to air quality, water quality, wetlands, endangered species, and groundwater. For purposes of this section, the requirement that the applicant identify any “permit” for “groundwater” shall include any requirement that the applicant report to or notify any local, state, or federal agency of groundwater and/or aquifer withdrawals pursuant to applicable local, state, or federal law.

(3) Specific requirements of application requirements may be waived by the respective reviewer, Planning and Land Use Director, or planning board, where it is determined that the required information is not applicable to the subject request.

70-3: Process:

(1) In order to assist applicants through the process for obtaining a Special Use Permit, applicants may request a pre-application conference with NHC planning staff prior to application submittal.

(2) The Planning and Land Use Director or their designee shall review application packages and respond to the petitioner as soon as possible but at most within 5 business days following the application submission to notify the petitioner in writing including regular mail or e-mail of any omissions to the requirements under Section 70-2(2) that render the application incomplete. This review for completeness is to ensure that each of the applicable documents have been submitted as part of the application, and not to verify or substantiate the information provided within the application package.

(3) Applications with no omissions to the requirements under Section 70-2(2) shall be deemed complete and be calendared for a public hearing at the next scheduled Planning Board meeting satisfying the application requirements. The Planning and Land Use Director or their designee shall respond to the petitioner as soon as possible but at most within 5 business days following the application
submission in writing including regular mail or e-mail to notify them that the application was deemed complete and confirm the date of the Planning Board meeting at which the public hearing will be held.

(4) Within 10 business days following an application deadline, complete applications for special use permit petitions shall be posted on the Planning and Land Use Department web page (www.planningdevelopment.nhcgov.com) in addition to the date, time, and location of the Planning Board meeting at which the public hearing will be calendared. Notification of the posting of the special use permit application(s) and meeting information shall also be sent to the Sunshine List. Any additional information received from the petitioner after the application deadline shall also be posted on the web page.

(5) In preparation for the public hearing at the Planning Board for a petition for a special use permit, the Planning and Land Use Director or their designee shall analyze the information and materials provided in the application package to provide a summary of the request and preliminary findings of fact in the form of a report to be included in the agenda package for the Planning Board meeting. The intent of the report is to inform the Planning Board of whether the Conclusions Required for Approval in Section 71-4 have been met or to identify, from staff’s perspective, issues or areas that the Planning Board may need more information on in order to provide a recommendation to the Board of County Commissioners whether each of the required conclusions in Section 70-7 have been met. The staff analysis report shall be published by the Clerk to the Planning Board as part of the agenda package for the Planning Board meeting.

(6) In preparation for the public hearing at the Board of County Commissioners for a petition for a special use permit, the Planning and Land Use Director or their designee shall prepare a report summarizing the Special Use Permit request, the information and materials provided in the application package and presented at the Planning Board public hearing(s), the Planning Board’s recommendations, and preliminary findings of fact. The intent of the report is to inform the Board of County Commissioners of whether the Conclusions Required for Approval in Section 71-4 have been met or to identify, from staff’s perspective, issues or areas that the Board of County Commissioners may need more information on in order to reach a required conclusion. The staff analysis report shall be published by the Clerk to the Board of County Commissioners as part of the agenda package for the County Commissioners meeting.

70-4: Public Notice

(1) Public notice for a petition for a special use permit shall be disseminated per Section 112.1 of the Zoning Ordinance.
70-5: **Public Hearings**

(1) A public hearing at the Planning Board for the special use permit application shall be calendared per Section 70-3(3).

(2) The public hearing for the special use permit application at the Planning Board shall be held in a quasi-judicial format. At the hearing, the Planning Board hears factual evidence presented at an evidentiary hearing, then makes recommendations for findings of fact supported by competent, substantial, and material evidence. Based on those recommended findings, the Planning Board may render a recommendation to the County Commissioners on whether each of the required conclusions specified in Section 70-7 can be reached.

(3) The applicant may be required by the Planning Board or Board of Commissioners to provide additional information to demonstrate that the four required conclusions have been met.

(4) The Planning Board may continue the hearing to a later meeting to accommodate the presentation of additional testimony or evidence. If the time and place of the continued hearing is announced in open session during the hearing, no further notice need be given for the continued hearing.

(5) A public hearing at the Board of County Commissioners shall be calendared following the public hearing at which the Planning Board makes a recommendation.

(6) The public hearing for the special use permit application at the Board of County Commissioners shall held in a quasi-judicial format. At the hearing, the Board hears factual evidence presented at an evidentiary hearing, then makes findings of fact supported by competent, substantial, and material evidence. Based on those findings, the Board of County Commissioners decides whether or not it can reach each of the required conclusions specified in Section 70-7 below.

(7) The Board of County Commissioners may continue the hearing to a later meeting to accommodate the presentation of additional testimony or evidence. If the time and place of the continued hearing is announced in open session during the hearing, no further notice need be given for the continued hearing.
**Review and Decision:**

(1) The applicant bears the burden of presenting sufficient evidence in support of the application to allow the Board of County Commissioners, after weighing such evidence against that presented in opposition to the application, to make findings of fact that reasonably support each of the required conclusions outlined in Section 70-7 as well as any applicable specific standards for the proposed use as required by Section 72. If that burden is met, the Board of County Commissioners must approve the application. If that burden is not met, the Board of County Commissioners must deny the application, provided that if the Board of County Commissioners determines that specific minor changes or additions to, or restrictions on, the proposed development are necessary and sufficient to overcome impediments to its reaching the required conclusions, it may approve the application subject to reasonable conditions requiring such changes or additions or imposing such restrictions. Such conditions may include time limits for completion of development or for the start or end of certain uses or activities.

(2) A motion to approve the application must state the required conclusions and include findings of fact on which the conclusions are based, plus any proposed conditions of approval. The favorable vote of a majority of Board of County Commissioners members present is necessary to pass such a motion. A motion to deny the application must state which of the required conclusions cannot be reached and include findings of fact on which the inability to reach the conclusions is based. The favorable vote of a majority of Board of County Commissioners members present is necessary to pass such a motion. If a motion to approve the application fails, the application is deemed denied, and those members voting against the motion must state which of the required conclusions they could not reach as well as findings of fact on which their inability to reach the conclusions is based.

(3) Every decision by the Board of Commissioners issuing or denying a special use permit shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the Board is filed in the Office of the Clerk to the Board, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk or Chairman of the Board at the time of the hearing of the case, whichever is later.
Conclusions Required for Approval – The Board of County Commissioners shall approve an application for a special use permit if it reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the hearing.

1. The use will not materially endanger the public health or safety if located where proposed and approved.
2. The use meets all required conditions and specifications of the Zoning Ordinance;
3. The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.
4. 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 Comprehensive Land Use Plan for New Hanover County.

Section 71: Validity, Extensions, and Changes for Approved Special Use Permits; Resubmittals of Denied Applications

71-1 Validity and Extensions of Approved Special Use Permits:

1. A special use permit, issued by the Board of County Commissioners, shall become null and void if construction or occupancy of the proposed use as specified on the special use permit is not commenced within twenty-four (24) months of the date of issuance. If an extension is desired, a request must be submitted in writing to the New Hanover County Planning and Land Use Department prior to the expiration. Extensions may be granted in accordance with Section 112-6 of the Ordinance.

2. In the event of failure to comply with the plans approved by the Board of County Commissioners or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this special use permit shall be issued, and all completed structures shall be regarded as non-conforming uses subject to the provisions of Article IV of this Ordinance provided, however, that the Board of County Commissioners shall not be prevented from thereafter rezoning said property for its most appropriate use.

71-2 Changes to Approved Special Use Permits:

1. The original applicant(s), their successors or their assignee may make minor changes in the location and/or size of structures provided the necessity for these changes is clearly demonstrated. Minor changes shall be reviewed by the Planning and Land Use Department and upon favorable recommendation by the
Planning and Land Use Director may be approved by the Zoning Administrator. Such approval shall not be granted should the proposed revisions cause or contribute to:

(A) A change in the character of the development.
(B) A change of design for, or an increase in the hazards to pedestrian and vehicle traffic circulation, or
(C) A modification in the originally approved setbacks from roads and/or property lines exceeding ten percent.

71-3 **Resubmittals:**

(1) An application for a special use which has been previously denied may be resubmitted only if there has been a change in circumstances as determined by the Planning and Land Use Director or the director's designee. Evidence presented in support of the new application shall initially be limited to what is necessary to enable the Planning and Land Use Director to determine whether there has been a substantial change in the facts, evidence, or conditions of the case and shall include:

(A) Circumstances affecting the property that is the subject of the application which have substantially changed since the denial; or
(B) New information available since the denial that could not with reasonable diligence have been presented at a previous hearing.

If the Planning and Land Use Director deems the evidence substantially changed, the proposal may be resubmitted as a new application. Appeal of the Planning and Land Use Director’s decision may be made to the Board of County Commissioners.

**Section 72: Additional Restrictions Imposed on Certain Special Uses**

72-1: The Board of County Commissioners may grant permission for the establishment of the following uses, subject to any specific conditions either set forth below or which the Board may deem necessary to satisfy the conditions set forth in Section 70 of this Article. (5/2/83)

72-2: **Cemetery** - A cemetery shall meet the minimum requirements of the North Carolina State Cemetery Commission.

72-3: **DELETED 9/7/76**

72-4: **Convenience Food Store** - A convenience food store may be permitted in the R-15 Residential District subject to the requirements of the district to be located and provided that:

(1) The total amount of land devoted to such use shall not exceed one (1) acre.
(2)  The gross square footage of the structure shall not exceed three thousand (3,000) square feet.

(3)  The use shall be limited to providing convenience food sales and gasoline sales to the surrounding residential area, provided that vehicular services such as, but not limited to, auto repair, sale of auto accessories, washing, etc. shall not be permitted.

(4)  A convenience food store shall not be permitted within the interior of a subdivision.

(5)  Specifications for a proposed principal use sign shall be submitted with the application for the Special Use Permit.

(6)  Off-Street parking shall meet the requirements outlined in Article VIII for retail use.

(7)  Fuel sales may be approved provided such sales shall be limited to one (1) pump island located a minimum distance of thirty (30) feet from any street right-of-way and forty (40) feet from any side or rear lot line. Overhead canopies shall be measured in accordance with Section 23-55. (4/2/84)

72-5:  DELETED (3/22/82)

72-6:  DELETED (1/5/81)

72-7:  DELETED (6/18/90)

72-8:  DELETED 4/31/75

72-9:  Hospital or Nursing and Personal Care Facilities - A hospital or nursing and personal care facility may be permitted in the R-20, R-15, or R-10 district subject to the requirements of the district provided that: (1/5/81)

   (1)  The lot size shall be no less than two (2) acres; and

   (2)  The structure shall have minimum side and rear yards of fifty (50) feet and a front yard of at least twenty-five (25) feet greater than that required of single family residences within the district in which located. (6/2/80)

72-10:  DELETED (1/5/81)

72-11:  DELETED (1/5/81)

72-12:  Private Club or Lodge and Fraternal and Social Organizations (Non-residential)

   These establishments may be permitted in any residential district except R-20S, subject to the requirements of the district and provided that:

   (1)  All new sites shall be no less than two (2) acres in size;
(2) Structures shall have minimum side and rear yards of fifty (50) feet and front yard of at least twenty-five (25) feet greater than that required for single family residences within the districted located; and

(3) Provisions for food, refreshment, and entertainment for club members and their guests may be allowed in conjunction with such use if the Board of County Commissioners determines that said provisions will not constitute a nuisance. (6/18/90)

72-13: **Sanitary Landfill**

A sanitary landfill may be permitted in the I-2 District subject to the requirements of the district and provided that:

(1) No refuse shall be deposited and no building or structures shall be located within fifty (50) feet of the nearest property line; and

(2) The operation of said fill shall be carried out in accordance with the standards and procedures prescribed by the North Carolina Department of Human Resources. (1/5/81)

72-14: **DELETED (1/5/81)**

72-15: **DELETED (1/5/81)**

72-16: **DELETED (1/5/81)**

72-17: **Travel Trailer Park**

A travel trailer park may be permitted in any residential district subject to the requirements of the district to be located and the requirements of the New Hanover County Mobile Home and Travel Trailer Park Ordinance.

72-18: **DELETED (1/5/81)**

72-19: **DELETED (1/5/81)**

72-20: **Family Child Care Homes**

(10/7/13)

A family child care home may be permitted in any residential district subject to the dimensional requirements of the district and provided:

(1) The entire play area is enclosed with a fence having a minimum height of four (4) feet and constructed in such a manner that maximum safety is ensured;

(2) No outside sign in excess of two (2) square feet in area shall be permitted, except when such facility is located on an existing collector or arterial facility as indicated
A kennel may be permitted in the R-15 and R-20 Residential districts provided:

1. Minimum lot size shall be as follows:

   - 1 to 10 Animals: 2 acres
   - 11 to 20 Animals: 4 acres
   - 21 to 30 Animals: 6 acres

   For each additional acre beyond six (6) acres, an additional ten (10) animals may be permitted. The minimum lot size requirements may be waived if a kennel is constructed to entirely enclose all kennel facilities so as to adequately protect all animals from weather extremes and to protect adjacent residences from noise, odors and other objectionable characteristics, provided all building setback requirements are in accordance with Section 72-26 (3).

2. All lots on which a kennel is located must have direct access onto a street that meets the minimum requirements for acceptance and maintenance by the North Carolina State Department of Transportation.

3. All structures shall have minimum side and rear yards of fifty (50) feet. Additional front, side and rear yard setbacks may be required as determined by the Zoning Administrator dependent upon proposed kennel construction.

4. Sewage disposal system and sanitation control methods as approved by the New Hanover County Board of Health shall be required for all kennels. (This provision shall include, but shall not be limited to, the sanitary removal or disposal of solid waste, carcasses, or any other items deemed necessary for removal or disposal because of unsafe or unsanitary conditions by the Health Department or Building Safety Department).

5. No outside sign in excess of two and one-fourth (2 1/4) square feet in area shall be permitted.

6. Other conditions, including, but not limited to, buffering and noise controls that provide adequate protection for adjacent residential properties as may be deemed reasonable and appropriate for each kennel by the Board of County Commissioners. (4/21/75) (5/2/83)
A mobile home may be permitted in the I-1 and I-2 Industrial districts provided:

(1) That all dimensional requirements as specified for residential dwellings in the R-15 district are met; and

(2) That the Special Use Permit, after a 12 month period, may be terminated by the Director of Planning and Land Use after 90 days’ notice and after review and recommendations by the Board of County Commissioners. (5/78) (5/2/83)

72-28: **Non-Residential Off-Street Parking**

Non-residential off-street parking may be permitted in Residential Districts provided:

(1) That the uses shall be subject to the Special Use Permit review process as prescribed in Article VII, Section 71 of this Ordinance in all instances.

(2) That the sites shall be used solely for ground level parking in conjunction with the principal use as opposed to paid parking lots, loading facilities, etc. (12/1382)

(3) That access to the site shall be controlled as follows:

   (A) Access shall be limited through the principal use site.
   (B) Access shall be prohibited through residential areas.
   (C) Access shall be placed within the common boundary with the principal use.

(4) Location of the site shall be controlled as follows:

   (A) The site be adjacent to the principal use site for at least a minimum distance of 25 feet.
   (B) No point of the proposed parking site shall be further than 200 feet from any and all points of the non-residential zoning district boundary; however, any intervening street right-of-way shall not be included for this measurement.
   (C) The site shall be located no closer than 50 feet from any street right-of-way other than that to which the principal use is adjacent. (11/4/91)
   (D) The site shall be located within the same parcel or group of parcels under the same ownership as the principal use.

(5) A minimum buffer of 10 feet shall be provided in accordance with the provisions of Article VI, Section 62 of this Ordinance for all adjoining residential property.

(6) All site lighting shall be located so as not to shine or reflect directly onto any adjacent residential property. (5/78)

72-29: A dwelling unit incidental to and contained in the same building as the principal use provided that:
(1) The purpose of this provision is to allow close physical proximity required by the owner-operator or a full time employee to effectively transact a small business and yet maintain economically and safely a family dwelling unit within the same structure;

(2) The dwelling unit shall be occupied solely by the person engaged in the principal use, a full time employee, or their family members residing with them;

(3) The building shall meet the minimum side and rear yard requirements of the R-15 (single family) district in all cases. The front yard shall conform to the requirements of the underlying zoning district. (6/03)

(4) The site shall provide an area of open space, unobstructed by any buildings, parking or structures, equal to the total floor space of the dwelling unit;

(5) The amount of floor area for the dwelling unit shall be not more than fifty percent (50%) of the total floor area of the principal use;

(6) The dwelling unit shall be located totally above the ground floor or totally to the rear of the principal use so as not to interrupt the commercial frontage;

(7) In addition to the required off-street parking for the principal use, two (2) off-street parking spaces shall be provided for the dwelling unit; and

(8) A site plan and a building layout plan shall be presented with any Special Use Permit application. (5/7/79)

(9) A mobile home may be used as a separate and unattached residential structure under this provision, provided:

   (A) An area of 15,000 sq. ft. can be designated for the use of residents, free from any use or activity needed to operate the business, and;

   (B) The mobile home shall be screened from view by adjacent properties or rights-of-way as specified in Section 62 of this Ordinance, and;

   (C) Items 2, 3, 6, 7 and 8 above shall be incorporated in the site review and approval of this subsection. (11/5/79)

(10) A single family dwelling unit may be constructed under this provision as a caretakers home for the enforcement and maintenance of conservation areas, provided:

   (A) The dwelling shall be occupied solely by the person engaged in the maintenance of the conservation land, an employee of the organization holding the conservation easement, or their family members residing with them.

   (B) The Conservation Easement allows a residence on the designated conservation land.

   (C) Items 3 and 8 above shall be incorporated in the site review and approval of this subsection.

72-30: DELETED (1/5/81)
72-31: **Commercial Marina**

This type of use may be permitted in any residential district or B-1 Business District provided: (2/7/83)

(1) A minimum of one (1) off-street parking space per boat slip and per four (4) dry storage facilities shall be provided. (4/05)

(2) A buffer in compliance with Section 62 shall be provided along all property lines abutting residential property.

(3) Night lighting by design and construction shall be contained on the site.

(4) A site plan shall be submitted for review and approval. (7/7/80)

(5) It can be demonstrated that the siting of the facility will have minimal impacts on water quality, primary nursery areas, shellfish grounds, and conservation resources. (10/10/92)

(6) Dry stack storage as an accessory to a marina may be allowed in a residential or B-1 zoning district. Dry stack storage must be clearly identified on the approved site plan and described in the findings of fact. Additional buffers or screenings will be required to mitigate noise, light and dust impacts on surrounding properties. (1/7/08, 8/4/08)

(A) Setbacks for dry stack storage from any residential property line shall be not less than 2.75 times the height of the structure if enclosed or the highest point of a stored vessel if unenclosed. (1/7/08, 8/4/08) In no case may the setback be less than the requirements of the underlying zoning district. (8/4/08)

(B) Appearance of stacked storage should retain the character of the surrounding residential areas and provide opaque vegetative buffers to reduce visual impacts. (1/7/08)

(C) Projects shall be designed so that the use of noise-generating activities, such as large marine forklifts, boat haul out or boat repair approved as part of the special use permit will be located as far away from residential structures as feasible to lessen impacts on the residential quality of life. (1/7/08)

72-31.5: **Commercial Marina with Floating Structures**

A commercial marina with floating structures may be permitted in the R-20S, R-20, R-15, B-1, B-2, I-1, or I-2 districts provided:

(A) Floating structures shall not be located within fifteen (15) feet of the waterward extension of all property lines.

(B) Not more than one dwelling unit per floating structure shall be permitted;

(C) A permanent pier, dock or walkway with adequate night lighting shall join each floating structure and the adjacent shoreline;
(D) Each floating structure shall be inspected and approved by the Building Safety Department prior to placement in the marina. This approval shall be dependent upon, but not limited to, approval of the electrical system and the method of exiting.

(E) Each floating structure shall be provided with permanent water and sewer systems approved by the New Hanover County Health Department. All wastewater piping from the unit shall be constructed to the N. C. State Plumbing Code. No overboard discharge openings through the hull or structure shall be permitted except for one (1) dewatering pipe which may not be connected to wastewater piping;

(F) A system for collection and removal of solid wastes and refuse shall be approved by the New Hanover County Health Department.

(G) A minimum of two (2) off-street parking spaces per floating structure shall be provided on-shore;

(H) A minimum of two thousand (2,000) square feet of gross land area contiguous and above mean high water shall be provided for each floating structure on-shore;

(I) A site plan shall be submitted for approval showing all improvements as required by this Ordinance; and

(J) Any floating structure existing prior to the adoption of this Ordinance shall have one (1) year to comply with all of the requirements of the New Hanover County Zoning Ordinance. (4/2/84)

(K) It can be demonstrated that the siting of the facility will not negatively affect water quality, primary nursery areas, shellfish grounds, and conservation resources. (10/19/92)

72-32:  DELETED (l/5/81)

72-33:  **Septage and Sludge Disposal**

Sludge disposal may be permitted in an R-15 district and septage may be permitted in an I-2 Industrial district subject to the requirements of the district and provided:

(1) Each disposal site shall be located a minimum of 1,000 feet in horizontal distance from a residence, place of business or church, and 100 feet in horizontal distance from any stream, canal, marsh, coastal water, lake or impoundment, subsurface drainage or drainage ditch.

(2) A planted buffer strip (as specified in Section 62 of the New Hanover County Zoning Ordinance) shall be provided along all front, side and rear property lines, except in areas designated for ingress and egress.

(3) Each site shall be posted "No Trespassing" and at each entrance legible signs of at least two square feet must be posted stating "Caution - Sludge or Septage Disposal Area" or other similar language conveying this warning.

(4) No septage or sludge shall be deposited and no building or structures shall be located within 100 feet of the nearest property line in the disposal site area.
(5) The operation and responsibility of said use shall be carried out in accordance with all standards and rules prescribed by the North Carolina Division of Health Services and the County Health Department. (7/6/82) (8/1/83)

72-34: **Outdoor Shooting Ranges**

Outdoor shooting ranges may be permitted in I-2 and AI Industrial Districts subject to the requirements of the district and provided that:

1. All shooting areas shall be setback a minimum distance of one hundred feet (100) from any street right-of-way.
2. The firing range shall have a natural earth embankment a minimum of ten (10) feet high placed behind all targets within the shooting area.
3. The firing range shall be posted "No Trespassing - Danger - Shooting Range", at one hundred (100) foot intervals around the perimeter.
4. At least one qualified individual in the sponsoring club or organization shall be certified for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization.
5. The firing range shall be covered by a minimum of three hundred thousand ($300,000) dollars of accident and liability insurance. (2/7/83)

72-35: **Adult Entertainment Establishment**

Adult entertainment establishments may be located within the I-1 Industrial District by Special Use Permit, subject to the requirements of the district and provided that:

1. Each adult entertainment establishment shall be located a minimum of 1000 feet from any existing adult entertainment establishment. Such measurement shall be the horizontal distance between the nearest property lines of the proposed and existing adult entertainment establishments.
2. Each adult entertainment establishment shall be located a minimum of 1000 feet from any residentially zoned area, church, school or park. Such measurement shall be the horizontal distance between the property line of the proposed adult entertainment establishment and the nearest residential zoning line or property line of any church, school, or park.
3. Any display, device or sign that depicts or describes specified sexual activities or specified anatomical areas shall be out of view of the public way and surrounding property. (9/7/89)

72-36: **Indoor/Outdoor Recreation Establishments**

This use may be permitted in the R-15, R-20, R-10, R-7, AR, AI, O-I, and RA Zoning Districts by Special Use Permit, provided: (8/04)

1. Adequate buffers are provided which screen adjoining residential uses from the effects of light and noise generated on the site.
(2) All buildings shall be set back from the right-of-way at least 50 feet and 100 feet if the site is in the Special Highway Overlay District.
(3) Signage shall be limited to one (1) ground sign not to exceed 32 square feet and be set back from the right-of-way at least 25 feet.
(4) Access to the site shall be to a US or NC numbered road or to a collector road as designated on the New Hanover Thoroughfare Classification Plan.
(5) Other conditions deemed by the Commissioners necessary to promote the health, safety and welfare of the community. (11/6/89)

72-37: Community Boating Facility

These facilities may be permitted in the PD, R-20S, R-20, R-15, R-10, R-7, RA and B-1 Districts provided:

(1) It can be demonstrated that the project will have minimal impacts on water quality, primary nursery areas, shellfish grounds, and conservation resources.
(2) Off-street parking will be provided at a ratio of one space per boat slip.
(3) The number of boat slips may not exceed the number of residential lots or dwelling units within the associated development.
(4) The right to the use of the facility must be conferred by an easement appurtenant to the residential project it is intended to serve.
(5) Commercial activities, including but not limited to the sale of gasoline, oil, marine supplies and food stuffs, shall be strictly prohibited. (10/19/92)

72-38: Residential Uses within Commercial Districts

A dwelling unit or units may be permitted in the B-1 or B-2 commercial Districts provided: (12/3/01)

(1) The dwelling units are part of a mixed use development established to provide innovative opportunities for an integration of diverse but compatible uses into a single development that is unified by distinguishable design features with amenities and walkways to increase pedestrian activity. Such a development shall be in single ownership or unified control of a property owners association.
(2) Uses within the development are restricted to residential and B-1 neighborhood business uses.
(3) A conceptual elevation indicating proposed architecture style shall be provided.
(4) Sidewalks must be provided throughout the project.
(5) Parking location and quantity should be shared.
(6) Community facilities and/or Common area shall be provided.
(7) A conceptual lighting plan must be provided.
(8) Residential uses are permitted and encouraged in the same building as commercial uses.
(9) DELETED (3/1/10)
72-39: **Bed and Breakfast Inn**

A Bed and Breakfast Inn may be permitted in an R-20S, R-20, R-15, AR or RA residential zoning districts provided:

1. A minimum of one (1) off-street parking space per bedroom.
2. One off-street parking space per employee.
3. No lighting beyond normal residential lighting.
4. The only sign allowed is a sign no greater than 4 square feet and must be an attached wall sign.

72-40: **Electronic Gaming Operation (Sweepstakes) (5/3/10)**

Except as provided in Section 72-40, Electronic Gaming Operations shall be permitted in accordance with the table of uses and subject to the following additional standards:

1. Hours of operation shall be limited to 8:00 a.m. through 12:00 midnight, 7 days per week.
2. Alcohol sales or consumption shall be prohibited.
3. The maximum number of machines/terminals/computers for any electronic gaming operation business is 10.
4. All food or beverage to be served or distributed by the establishment must meet the requirements of the New Hanover County Environmental Health Department, including any and all permits and licenses.
5. Fire Services shall set an occupancy limit for the establishment prior to submission of special use permit application.
6. Maximum daily cash payout shall not exceed $600. Winnings which exceed this amount shall be paid out in the form of a check or credit. All establishments engaged in internet and sweepstakes operations must comply with all reporting requirements regulated by the Internal Revenue Service.
7. Any building and/or zoning permits issued for electronic gaming and sweepstakes operations shall be subject to annual review (from the date of approval) to ensure compliance with all relevant regulations and conditions.
8. Off-Street Parking shall be 1 space for each 100 sq. ft. of gross floor area or 1 space for every 2 terminals/computers, whichever is greater, and must comply with all other provisions of Section VIII of the Zoning Ordinance.
9. Electronic gaming operations shall be located a minimum distance of 500 feet, measured in a straight line in any direction from closest point of the building and parking lot of the proposed business to the property line of any of the following:
   a) A residence or a residential zoning district
   b) A place of worship or other religious institution.
   c) A day care center, public or private school.
   d) A Public park, playground, public library
   e) Another electronic gaming operation
   f) An adult entertainment establishment
10. Applicants shall submit a current straight line drawing prepared within thirty days prior to the application by a registered surveyor, depicting the property lines and the structures containing any of the above uses and the straight line measurements to each. A use in Item 9 shall be considered to be existing or established if it is in place or actively under construction at the time an application is submitted. Residential zoning districts shall be based upon the most current official zoning map.

11. All legally operating gaming operations made non-conforming by adoption of this section shall be removed or brought into compliance with these provisions within 60 months of the date of adoption of this section.

72-41: **Farmers Markets or Produce Stands in Residential Zoning Districts (12/6/10)**

A Farmers Market or produce stand, whether enclosed in a structure(s) or proposed as open lot sales of farm produce, shall be allowed in residential zoning districts by special use permit when such use is proposed as a permanent enterprise; when the provisions and standards of 63.1-5 of this ordinance are not met; or when goods or activities are proposed which do not conform to Section 63.1-5. In reviewing proposals, the Planning Board and the Board of County Commissioners shall review each application in accordance with the requirements of Section 71-1(3) and more particularly with regard to the following:

1. The shape, the environmental characteristics, the width and the physical location of the property.
2. The inclusion of a safe and enforceable management plan for pedestrian and vehicular traffic, (including parking) both on the proposed site and along the adjacent roadway.
3. The extent to which all adjoining residential uses will be protected from imposition of artificial light, noise, dust, odors or debris generated by any and all of the proposed market uses.
4. The inclusion of an adequate solid waste management plan to systematically remove discarded products and other debris.
5. Assurances of the authenticity of farm products and arts and crafts and a listing of goods to be sold.
6. The extent to which the range of standards, goods or activities for the proposal meets or deviates from those standards outlined in Section 63.1-5 of this ordinance.
7. For permanent signage, the proposal must meet the requirements of Article IX of this ordinance. Temporary signage shall be subject to the provisions of 63.1-5.
8. All structures or operations must comply with environmental health codes, fire codes and building codes, as applicable.

Final approval or denial of any special use permit shall be made according to the judgment of the Board of County Commissioners. The Board may decide that the proposal as
submitted will benefit the community without undue conflicts or that the proposal is not appropriate in the proposed location. If approved, the permit may be conditioned by the Board when, in its wisdom, additional conditions are necessary to mitigate specified negative impacts upon the community.

Section 2. Any ordinance or any part of any ordinance in conflict with this ordinance, to the extent of such conflict, is hereby repealed.

Section 3. This ordinance is adopted in accordance with NCGS 153A-341 and the board of commissioners has found the amendment consistent with the policies adopted in the 2006 land use plan and reasonable and in the public interest.

Section 4. This ordinance is adopted in the interest of public health, safety, morals and general welfare of the inhabitants of the County of New Hanover, North Carolina, and shall be in full force and effect from and after its adoption.

Section 72-42: Mining
(10/3/2011)

Low Intensity Mining Operations
Low intensity mining operations shall be permitted in accordance with the use tables in Section 50-2, subject to the following:

(1) Class I Mining Operations may not occupy more than 20 acres.
(2) Soil or other unconsolidated material (i.e. sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. However, no further on-site processing is permitted (i.e. use of conveyor systems; screening machines; crushing; or other mechanical equipment). Mining activities where other on-site processing activities are conducted are considered Class II Mining Operations.
(3) The use of explosives is not permitted.
(4) All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
   a. Must be located a minimum of 100 feet from all property lines.
   b. The depth of each excavation pit shall not exceed 35 feet.

High Intensity Mining Operations
High intensity mining operations shall be permitted in accordance with the use tables in Section 50-2, subject to the following:

(1) The minimum lot size shall be one acre.
(2) Soil or other unconsolidated material (i.e. sand, marl, rock, fossil deposits, peat, fill or topsoil) may be removed for use off-site. Additional on-site processing shall be permitted (i.e. Use of conveyor systems; screening machines; crushing; or other mechanical equipment).
(3) All mining operations and their associated activities shall comply with the following standards when dewatering occurs:
   a. Must be located a minimum of 100 feet from all property lines.
(4) High Intensity Mining activities shall not be allowed in areas classified as aquifer resource protection or watershed resource protection on the 2006 CAMA Land Classification Map. (9/6/16)

Section 72-43: High Density Development
(2/16/87)

Purpose: The purpose of this section is to encourage high density development in Employment Center, Urban Mixed Use, or Community Mixed Use place types where adequate services are available, provided that environmental impacts are minimized and adequate open space is provided. (10/5/95) (9/6/16)

All High Density Developments shall comply with the following requirements:

(1) **Thoroughfare Requirements** - The development shall have direct access, as required in Section 61.3, to and from an existing major or minor arterial, as indicated in the New Hanover County Thoroughfare Classification Plan. All interior drives shall be designed so as to provide adequate access for emergency service vehicles.

(2) **Buffer Strip** - Buffer strips shall be required in accordance with Section 62. (5/6/85)

(3) **Site Capacity Standards**

(A) **Purposes** - Site capacity for any proposed high density residential development is equal to the BASE SITE AREA multiplied by the density factor. The purpose of this section is to determine the extent to which a site may be used given its location and physical characteristics.

(B) **Definition of BASE SITE AREA**

1. Gross site area as determined by actual on site survey of parcel _____ acres.
2. Subtract water bodies and other areas below mean high water line, if tidally influenced, or below mean water line, if non-tidally influenced _____ acres.
3. Subtract land used as open space in prior residential developments _____ acres.
4. Subtract land used for commercial, office and institutional, and light industrial purposes in the Planned Development District _____ acres. (8/20/84)
5. Equals BASE SITE AREA______.

(C) **IMPROVED RECREATIONAL LAND and OPEN SPACE Requirements:**
1. The following minimum amounts of the BASE SITE AREA shall be either OPEN SPACE or IMPROVED RECREATIONAL LAND:

DISTRICT:
R-10..........20%
R-15...........35%
R-20...........50%
O&I...........35%
PD............35%

If the development shall consist of detached single family units on subdivided lots no less than 6,000 square feet, however, the above minimum amounts for OPEN SPACE or IMPROVED RECREATIONAL LAND may be reduced by one-half.

2. IMPROVED RECREATIONAL LAND Requirements - IMPROVED RECREATIONAL LAND shall consist of grassed and landscaped areas or areas occupied by recreational activities. Recreational activities may include, but are not limited to, swimming pools, tennis courts, golf courses, ball fields, basketball courts, soccer fields, tot lots and community recreational buildings. The amount of IMPROVED RECREATIONAL LAND shall be equal to at least 15% of the BASE SITE AREA.

3. OPEN SPACE Requirements - The following additional types of permanent OPEN SPACE shall be provided and may be used to meet the minimum total amount of OPEN SPACE required in Section 72-43(3)c(1):

a. 100-year flood plains - The determination of all flood plain boundaries shall be based on areas of special flood hazard as determined in Article I, Section 3 of the County Flood Plain Management Regulations. At least fifty percent (50%) of such areas shall be permanent OPEN SPACE.

b. Lake and pond shorelines - The shorelines of lakes and ponds consist of the area within 50 feet inland of the mean water line. At least 25% of all such areas shall be permanent OPEN SPACE.

c. Waterfront shorelines - Waterfront shorelines consist of the area within 75 feet inland of the mean high water mark of sounds, estuaries or ocean. At least 25% of all such areas shall be permanent OPEN SPACE.

d. Conservation Resource Areas - Conservation resources consist of those important environmental resources described in Section 55.1-3. The minimum amounts that shall remain conservation space shall be calculated as
(e) Other Areas - Other land areas shall be designated OPEN SPACE as needed to satisfy the minimum total required amounts specified in Section 72-43(3)(c)1. Land areas smaller than 1000 square feet and parking lots may not be counted as satisfying minimum open space requirement. (1/2/90)

e. OPEN SPACE, with the exception of Conservation Resource areas, may be improved and used to satisfy the requirements for IMPROVED RECREATIONAL NEEDS.

f. OPEN SPACE shall remain undivided and be reserved and used in accordance with Section 60.2.

(D) Determination of site capacity

1. The maximum number of dwelling units that may be built may be determined by multiplying the BASE SITE AREA by the appropriate density factor from the table below. (1/2/90) (10/5/95)

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>DENSITY FACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-10</td>
<td>17 units/acre</td>
</tr>
<tr>
<td>R-15</td>
<td>10.2 units/acre</td>
</tr>
<tr>
<td>R-20</td>
<td>4.25 units/acre</td>
</tr>
<tr>
<td>O&amp;I</td>
<td>10.2 units/acre</td>
</tr>
<tr>
<td>PD</td>
<td>4.25 units/acre</td>
</tr>
</tbody>
</table>

   PD (inside Employment Center/Urban Mixed Use/Community Mixed Use/General Residential place types  4.25 units/acre

2. Each high density development shall be located on a parcel of land that is either totally or primarily in, contiguous to or within 250 feet of, the boundary of areas classified Employment Center, Urban Mixed Use, or Community Mixed Use place types. In cases where a high density development includes primarily Employment Center, Urban Mixed Use, or Community Mixed Use and limited Conservation place type or AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern, the residential units shall not be clustered at a density greater than 2.5 units per BASE SITE acre in the AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern. (10/5/95) (9/6/16) (6/4/18)

(4) Table of District Improvement Requirements - The following minimum improvements shall be required for high density residential developments taking place in the respective residential zones; improvements shall be constructed in accordance with the standards set by the County or appropriate local or State agency.
<table>
<thead>
<tr>
<th>Zoning Type</th>
<th>Public or Community Sewer</th>
<th>Public or Community Water</th>
<th>Underground Storm Drainage</th>
<th>Curb and Gutter</th>
<th>Max. Imperv. Surface Ratio for Gross Site Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-10</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>.50</td>
</tr>
<tr>
<td>R-15, O&amp;I</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>.40</td>
</tr>
<tr>
<td>R-20</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>.30</td>
</tr>
<tr>
<td>PD (8/20/84)</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>.40</td>
</tr>
</tbody>
</table>

Developments locating in the Sewer District of New Hanover County shall design and install a sewer collection system. (8/3/87)

(5) **Setbacks and Uses**

(A) The required minimum setback for High Density development shall not be less than twenty-five (25) feet. (7/5/95) When such projects are located and adjacent to any existing detached residential development (not including Mobile Home Parks or other High Density or Planned Developments), structures over twenty-five (25) feet in height shall be setback a distance equal to the height of the structure.

(B) In no case shall any part of a detached single-family dwelling unit be located closer than ten (10) feet to any part of any other detached single-family dwelling, and in no case shall any part of a multiple dwelling unit be located closer than twenty (20) feet to any part of another dwelling unit. (6/1/92)

(5) Parking shall be provided in accordance with Article VIII of this Ordinance.

(6) A drainage plan pursuant to Section 52-5 of the Subdivision Ordinance shall be submitted. (5/5/97)

(7) Sewage disposal facilities shall be in accordance with Section 63.3-1.

(8) When a development proposal is submitted under this Section, it shall be reviewed in accordance with the same standards as established in the Subdivision Ordinance even if the project does not involve the subdivision of land. All High Density projects shall require a special use permit. (7/1/96)

(9) A site plan conforming to the requirements of Section 60.1 shall be submitted.

(10) A homeowners association meeting the requirements of Section 60.5 shall be established. (3/22/82)

(11) Maximum allowable height for structures shall be forty (40) feet. However, the maximum allowable height for piling supported primary structures which are located in "Coastal High Hazard Areas, V-Zones" and/or Ocean Hazard Areas as defined by the Coastal Resources Commission shall be 44 feet. (10/5/92)

(12) Signs shall be in accordance with Article IX.

(13) The approximate delineation of Corps of Engineers Section 404 and Section 10 Wetlands. (10/99)
(14) The Technical Review Committee (TRC) shall meet with Planning and Land Use staff to review plans for high density projects as submitted. Upon review and consultation among Committee members, the TRC shall either approve or deny the proposed site plan. TRC meetings shall be scheduled every two weeks as necessary. Disapproval letters shall specify the reasons for disapproval. Special use permits are required for high density projects.

Revisions for High Density Development shall be reviewed the same as an original submittal in accordance with the site plan requirements. Such revisions shall be limited to those areas still owned by the developer. Density calculations shall not include land areas already platted and/or sold. (7/02)

Section 72-43.1: Senior Living Options
(11/10/08)

Active Adult Retirement Community or Independent Living – Since this type of development is most commonly a simple matter of segregating residents based on age and not physical limitations, development proposals in this category shall not be differentiated from other residential subdivisions or special use high density residential proposals.

Continuing Care Retirement or Life Care Community – Since this type of development provides a variety of residential units that accommodate older adults through the continuum of changing needs, development proposals in this category shall be permitted as a special use when the following conditions are met:

(1) Minimum lot size: 20 acres
(2) Parking requirements: 1.5 spaces per independent or assisted living unit plus 1 per employee on the largest shift at all facilities.
(3) Maximum impervious area for the total development may not exceed 40% of the net acreage. In areas where coastal stormwater rules apply, those limits will supersede this provision.
(4) Commercial uses in the nature of small, neighborhood shops, each not exceeding 5,000 sq. ft. of gross floor area may occupy up to 2% of the net acreage.
(5) Maximum height may not exceed 35 feet for single family structures designated for seniors or for any building within 50 feet of single family residential lots or parcels.
(6) Except as noted in item 5, above, maximum height may be considered for approval to exceed 35 feet, up to 50 feet, when setbacks are increased to equal the proposed height of the building.
(7) Public water and sewer must serve the site.
(8) Open Space and improved recreational area shall be provided at a rate of 35% of net acreage. Improved recreation space shall be appropriate for seniors at all stages of lifestyle transition, such as ADA accessible walkways, gardens, and parks.
Vegetative buffers of not less than 20 feet are required for all proposals.

Traffic impacts and required road improvements must be reviewed and approved by the MPO and NCDOT. Frontage on an arterial or collector street is required unless located in a Planned Development as described in Section 54.2-2 (7) (O) b.

All other local state or federal permits or authorizations.

**Assisted Living or Personal Care Facility** - Since this type of development provides residential units to accommodate seniors in need of assistance with the activities of daily living, development proposals in this category, not part of a Continuing Care Retirement/Life Care Community, shall be permitted as a special use when the following conditions are met:

1. Minimum lot size: 5 acres
2. Parking requirements: 1.25 spaces per living unit plus 1 per employee on the largest shift.
3. Maximum Height shall be limited to 35 feet when buildings are placed within 50 feet of single family residential lots or parcels.
4. Except as noted in item 3 above, height may be considered for approval to exceed 35 feet, up to 50 feet, when setbacks are increased to equal the proposed height of the building.
5. Public water and sewer must serve the site.
6. Maximum impervious area shall not exceed 50% of the net acreage. In areas where coastal stormwater rules apply, those limits will supersede this provision.
7. Open Space and improved recreation space shall be provided at a rate of 20% of net acreage. Vegetative buffers of not less than 20 feet are required for all proposals.
8. Traffic impacts and required road improvements must be reviewed and approved by the MPO and NCDOT. Frontage on an arterial or collector roadway is required.
9. All other local state or federal permits or authorizations.

**Nursing home/rehabilitation center** - Since this type of development provides residential care in a licensed institutional setting, the provisions of the ordinance outlined in Sec. 72-9 of the ordinance apply. The number of beds approved should correspond to the number of beds allocated to the applicant by an approved certificate of need.

**Section 72-44: Sludge Disposal**

Sludge disposal is a permitted use in the I-2 District provided each disposal site is located a minimum of 250 feet in horizontal distance from a residence, place of business or church, and 100 feet in horizontal distance from any stream, canal, marsh, coastal water, lake or impoundment, subsurface drainage or drainage ditch; and, the operation and responsibility of said use is carried out in accordance with all standards and rules prescribed by the North Carolina Division of Health Services and the County Health Department. (7/6/82) (8/1/83)
Section 72-45: Adult Entertainment Establishment

Any adult entertainment establishment as defined herein which does not comply with the requirements of this ordinance shall be discontinued or made conforming within twelve months from the effective date of this amendment. (11/1/93)

Section 73: DELETED (3/22/82)
ARTICLE VIII: OFF-STREET PARKING AND LOADING

Section 80: Off-Street Parking Requirements

80-1: There shall be provided, at the time of the erection of any building or structure, or at the time any principal building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type use or occupancy to another, permanent off-street parking space in the amount required in this Section. Such off-street parking may be provided on graded improved open space or in an elevated parking structure or a designated docking space on adjoining navigable waters (4/6/92), except that all non-residential parking shall be located no less than eight (8) feet from any street right-of-way line (public or private), access easement or passageway. (9/7/93) Parking lots shall be landscaped in accordance with Section 62.1-5. (12/5/88) Elevated parking structures may be permitted in residential districts, B-1, B-2 Business Districts, and O & I Office and Institutional Districts by Special Use Permit upon review and subsequent final approval by the Board of County Commissioners in the manner prescribed in Article VII, Section 71. (12/13/82) Non-residential off-street parking may be permitted in residential districts by special use permit upon review and subsequent final approval of the Board of County Commissioners in the manner prescribed in Article VII, Section 72-28.

80-2: Certificate of Minimum Parking Requirements

Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. Required off-street parking area for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this Ordinance are met.

80-3: Combination of Required Parking Space

The required parking space for any number of separate uses may be combined in one (1) lot but the required space assigned to one use may not be assigned to another use, except that one-half (1/2) of the parking spaces required for churches, theater, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

80-3.1 Shared Parking

In the case of dual uses on the same property, when the use of the property is by private membership, the parking requirement for the lesser of the two associated uses within the facility shall be reduced by ½. (4/05)
80-4: **Remote Parking Space**

If the off-street parking space required by this Section cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any non-residential zoned land within four hundred (400) feet of the main entrance to the principal use. (12/1/80)

80-5: **Separation from Walkways, Sidewalks and Streets**

All parking, loading, and service areas shall be separated from walkways, sidewalks and streets by curbing or other suitable protective devices to prevent vehicles from intruding into these areas.

80-6: **Off-Street Parking Design and Space Size**

A standard parking space shall have a minimum width of 8.5 feet and a minimum length of 18 feet. Larger spaces may be designated provided the minimum required spaces for the use or uses served are met. Parking spaces for small vehicles may be designated provided that these spaces do not occupy more than 25% of the total number required. Small parking spaces shall have a minimum width of 8 feet and a minimum length of 16 feet. Water-oriented parking shall have a minimum width of ten feet and a minimum length of 16 feet. Space adjacent to a floating dock shall have a minimum length of 16 feet. Each space or area designated for small vehicle parking or water-oriented parking shall be identified by proper signage. (11/4/91) Water-oriented parking shall consist of a minimum of two (2) boat slips but shall not account for more than 10% of the parking requirement of any designated use. (4/6/92)

80-7: For uses not specifically mentioned herein, off-street parking requirements shall be interpreted by the administrator of this Ordinance upon the recommendation of the Planning and Land Use Department, based upon requirements for similar uses, if any, established herein.
Section 81: Minimum Parking Requirements

81-1: The following off-street parking space shall be required and maintained:

<table>
<thead>
<tr>
<th>Uses</th>
<th>Required Off-Street Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-Family or Duplex Residential</td>
<td>Two (2) parking spaces on the same lot for each dwelling unit</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>One and one-half (1.5) spaces per 1 bedroom unit Two (2.0) spaces per 2+ bedroom units</td>
</tr>
<tr>
<td>Auditorium or theater</td>
<td>One (1) space for each four (4) seats in the largest assembly area</td>
</tr>
<tr>
<td>Auto wash</td>
<td>One (1) space for each two (2) employees on shift of greatest employment, plus one (1) space for the manager and spaces equal to three times the capacity of the car wash</td>
</tr>
<tr>
<td>Banks and Financial Institutions</td>
<td>One (1) space for each one hundred fifty (150) square feet of gross floor area (up to two stacking spaces per drive-through teller window may be credited to the minimum). (4/5/94)</td>
</tr>
<tr>
<td>Bowling Alley</td>
<td>Three (3) spaces per alley plus requirements for any other use associated with the establishment such as restaurant, etc.</td>
</tr>
<tr>
<td>Child Care Center</td>
<td>One (1) space per eight (8) participants (10/7/13)</td>
</tr>
<tr>
<td>Churches</td>
<td>One (1) parking space for each four (4) seats in the sanctuary.</td>
</tr>
<tr>
<td>Clinics, Medical</td>
<td>Four (4) parking spaces for each doctor plus one (1) parking space for each employee</td>
</tr>
<tr>
<td>Clubs, Public, Private &amp; Associated Uses</td>
<td>One (1) parking space for each one hundred (100) square feet of gross floor space. Parking for any associated use may be reduced by ½ upon submission of adequate documentation and favorable recommendation by the Planning and Land Use Department and approved by the Land Use Director.</td>
</tr>
<tr>
<td>Dry Dock Boat Storage Parking</td>
<td>One (1) space per 4 dry docks</td>
</tr>
<tr>
<td>Fraternities or Sororities</td>
<td>One (1) space for each resident occupant</td>
</tr>
<tr>
<td>Funeral Homes</td>
<td>One (1) parking space for each five (5) seats in the chapel or parlor, plus one (1) for each funeral vehicle</td>
</tr>
<tr>
<td>General or Professional Offices</td>
<td>One (1) parking space for each four hundred (400) square feet of gross floor space</td>
</tr>
<tr>
<td>Golf Course, Par 3, or Miniature Golf course</td>
<td>Three (3) spaces for each hole plus requirements for any other use associated with the golf course, restaurant, etc.</td>
</tr>
<tr>
<td>Group Homes</td>
<td>No more than 2 plus 1 per 4 beds and 1 per supervisor</td>
</tr>
<tr>
<td>Home Occupations (except medical doctor, dentist offices and/or beauty salons)</td>
<td>Two (2) parking spaces in addition to the residential parking requirements</td>
</tr>
<tr>
<td>Uses</td>
<td>Required Off-Street Parking</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Home Occupations-medical doctors, dentist offices and/or beauty salons in residence</td>
<td>Three (3) parking spaces in addition to the residential parking requirements</td>
</tr>
<tr>
<td>Hotel/Motel (1/4/83) Hotel - deleted (1/4/83)</td>
<td>One (1) space for each unit plus one (1) space for each two (2) employees plus requirements for other use associated with the establishment</td>
</tr>
<tr>
<td>Hotel/Motel, Resort (1/4/83)</td>
<td>One and a half (1.5) spaces for each unit, plus one (1) space for each two (2) employees, plus requirements for other uses associated with the establishment</td>
</tr>
<tr>
<td>Industrial or Manufacturing Establishment or Warehouse</td>
<td>One and one-half (1.5) spaces for each two (2) employees on shift of greatest employment, one (1) space for each managerial personnel, one (1) visitor parking space for each ten (10) managerial personnel and one space for each vehicle used directly in conduct of the business</td>
</tr>
<tr>
<td>Kindergarten or Nursery</td>
<td>One (1) space for each employee and four (4) spaces for drive-in off-street drop-off and pickup</td>
</tr>
<tr>
<td>Libraries and Museums</td>
<td>One (1) space for each four (400) hundred square feet of gross floor area</td>
</tr>
<tr>
<td>Nursing Homes</td>
<td>One (1) parking space for each four (4) beds intended for patient use, plus one (1) per employee on largest shift</td>
</tr>
<tr>
<td>Restaurant or Place Dispensing Food, Drink or Refreshments</td>
<td>One (1) space for each three (3) seats plus one (1) space for each two (2) employees</td>
</tr>
<tr>
<td>Restaurant, Drive-in</td>
<td>One (1) space for each three (3) seats plus a minimum of fifteen (15) spaces for drive-in service plus one (1) space for each two (2) employees</td>
</tr>
<tr>
<td>Retail use not otherwise listed</td>
<td>One (1) parking space for each four hundred (400) square feet of gross floor area</td>
</tr>
<tr>
<td>Schools, Elementary and Junior High Schools</td>
<td>One (1) parking space for each classroom and administrative office, plus ten (10) additional spaces</td>
</tr>
<tr>
<td>Schools, Senior High</td>
<td>One (1) parking space for each ten (10) students for which the building was designed plus one (1) parking space for each classroom and administrative office</td>
</tr>
</tbody>
</table>
### Section 82: Off-Street Loading Requirements

82-1: In any district in which a building hereafter erected is to be occupied by any manufacturing, processing, assembly, wholesaling, retailing, laundering, dry cleaning or similar activity requiring the receiving or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space plus one (1) additional space for every twenty thousand (20,000) square feet or major fraction thereof of gross floor space in excess of ten thousand (10,000) square feet. Each such loading space shall be at least ten (10) feet in width, twenty-five (25) feet in length, and shall have a height clearance of at least fourteen (14) feet.
ARTICLE IX: DESIGN STANDARDS AND REGULATIONS FOR SIGNS
(8/6/01)

Section 90: Purpose

The purpose of this section is to coordinate the type, placement, and physical dimensions of signs within the different zoning districts; to recognize the commercial communication requirements of all sectors of the business community; to promote both renovation and proper maintenance of signs; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. The general objectives of these standards are to promote the health, safety, welfare, convenience and enjoyment of the public, and in part, to achieve the following: (12/7/87)

1. **Safety** - To promote the safety of persons and property by providing that signs:
   - (A) Do not create a hazard due to collapse, fire, decay, collision, or abandonment;
   - (B) Do not obstruct fire-fighting or police surveillance; and
   - (C) Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.

2. **Communications Efficiency** - To promote the efficient transfer of information in sign messages by providing that:
   - (A) Those signs which provide messages and information most needed and sought by the public are given priorities;
   - (B) Businesses and services may identify themselves;
   - (C) Customers and other persons may effectively locate a business or service;
   - (D) No person or group is arbitrarily denied the use of the sight lines from the public right-of-way for communication purposes; and
   - (E) Persons exposed to signs are not overwhelmed by the number or size of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose.

3. **Landscape Quality and Preservation** - To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
(A) Do not interfere with scenic views;
(B) Do not create a nuisance to persons using the public rights-of-way;
(C) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement;
(D) Are not detrimental to land or property values; and
(E) Contribute to the special character of particular areas of the community, helping to orient the observer within it.

(4) **Outdoor Advertising Signs** - Outdoor advertising signs are herein regulated for the purposes of regulating excess signage, encouraging the positive economic development of the county, preserving and improving tourism views, promoting the safety of the traveling public, protecting existing property values in both residential and nonresidential areas, preventing the overcrowding of land, and protecting the aesthetics of the county.

The regulations are designed to prevent their over-concentration, improper placement, and excessive height, bulk, number and area. It is recognized that, unlike on-premise identification signs, which are in actuality a part of a business, outdoor advertising is a separate and distinct use of the public thoroughfare. With a view to this distinction, outdoor advertising signs are regulated differently from on-premise signs.

**Section 91: General Provisions**

91-1: **Compliance with Building and Electrical Codes**

All signs shall be constructed in accordance with the requirements of the local and state Building Code and the National Electrical Code.

91-2: **Anchoring**

(1) Signs shall be suspended by nonrigid attachments that will allow the sign to swing in a wind.
(2) All freestanding signs and outdoor advertising signs shall have self-supporting structures erected on or permanently attached to concrete foundations.
(3) All portable signs on display shall be braced or secured to prevent motion.

91-3: **Wind Loads**

Solid signs, and skeleton signs other than wall signs, shall be designed to withstand a wind load according to the North Carolina State Building Code.

91-4: **Additional Construction Specifications**
(1) No signs shall be erected, constructed or maintained so as to obstruct any required exit, fire escape, window or door opening used as a means of egress.

(2) No sign shall be attached in any form, manner or shape which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of the provisions of Fire Prevention Codes.

(3) Signs shall be located in such a way as to maintain horizontal and vertical Clearance of all overhead electrical conductors in accordance with the National Electrical Code specifications.

91-5: Maintenance and Removal

Should any sign become in danger of falling or is deemed otherwise unsafe in the opinion of the Building Safety Director, the owner thereof, or the person or firm maintaining the same, shall upon written notice from the Building Safety Director, forthwith in the case of immediate danger and in any case within 10 days, secure said sign in a manner to be approved by the Building Safety Director in conformity with the provisions of the state building code, or remove such sign. If such sign is not removed, the Building Safety Director or his designated agent may initiate legal procedures to obtain the necessary court orders to remove such signs at the expense of the owner or lessee thereof.

91-6: Abandoned Signs

Any on-premises sign relating to any business or other use shall be removed by the owner of the sign or property owner within 60 days after such business or activity has been vacated or terminated. If such sign has not been removed after the removal time has expired and after proper written notification has been issued, the Director of Planning and Land Use or his designated agent may initiate legal procedures to remove such signs at the expense of the owner or lessee thereof.

91-7: Sign Measurements

(1) General - For the purpose of this Ordinance, the area, in square feet, of any sign shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign. In computing the sign area in square feet, standard mathematical formulas for known or common shapes will be used. In the case of irregular shapes, straight lines drawn closest to the extremities of the shape will be used.

(2) Multiple Faces - Where a sign has 2 or more faces, the area of all faces shall be included in determining the area of the sign, except that where 2 such faces are placed back-to-back and are at no point more than 2 feet from one another. The area of the sign shall be taken as the area of the larger face if the 2 faces are of unequal area; if the areas of the 2 faces are equal, then the area of 1 of the faces shall be taken as the area of the sign.
91-8: **Lighting**

Unless otherwise specified by this Ordinance, all signs may be illuminated. However, no sign regulated by this Ordinance may utilize:

1. an exposed incandescent lamp with an external reflector without a sunscreen or comparable diffusion;
2. an exposed incandescent lamp unless a screen is attached; or
3. a revolving beacon light.

91-9: **Exemptions**

This section shall not relate to building design, nor shall the chapter regulate official traffic signs, gravestones, lighting or displays of a seasonal religious or traditional nature (e.g., Christmas or Chanukah lights or decorations, Thanksgiving decorations, Halloween lights or decorations, etc.) which are not commercially-oriented, scoreboards on athletic fields, or any display or construction not defined herein as a sign. The regulations of this section shall not apply to any sign that is not visible from the perimeter of the subject property.

91-10: **Permits Required**

Unless otherwise specifically provided, a sign permit shall be obtained in accordance with the procedures of Section 92 before commencing the construction, alteration, erection, addition to, or moving of any sign or outdoor advertising sign or part thereof.

91-11: **Indemnifications and Insurance**

1. All persons involved in the maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way or property shall agree to hold harmless and indemnify the city and county, its officers, agents, and employees, against any and all claims of negligence resulting from such work insofar as this Ordinance has not specifically directed the placement of a sign.
2. No person may engage in the business of erecting, altering, relocating, constructing, or maintaining signs without a valid contractor’s license and all required licenses on the state and federal level.
3. All persons involved in the installation, maintenance, relocation, or alteration of signs shall maintain all required insurance and shall file with the state a satisfactory certificate of insurance to indemnify the city, state, or county against any form of liability to a minimum of $100,000.

91-12: **Prohibited Signs**

In all zoning districts the erection, construction, location or the use of any sign is prohibited as follows. Such signs, if deemed to create a public safety hazard by the Building Safety Director, may be removed immediately; otherwise, prohibited signs shall be removed as provided under Section 97.
(1) **Signs in Public Right-of-Way** - No sign shall be permitted on or protrude into a public right-of-way, street or passageway except as provided specifically for herein.

(2) **Signs Attached to Public Property or Utility Structures** - Except for signs installed by or with the approval of an appropriate governmental agency, no sign shall be attached to, hung or painted on any curb stone, hydrant, lamppost, street trees, barricade, temporary walk, telephone pole, telegraph pole, electric light pole or other utility pole, public fence or on a fixture of a fire alarm or police call system within any public right-of-way. No detached sign shall be located closer than 10 feet in any direction from any power or transmission line. (NOTE: This does not include the supporting structure, e.g., the power pole.)

(3) **Signs Constituting Traffic Hazards** - No sign shall be permitted whereby its location, nature or type constitutes or tends to constitute a hazard to the safe and efficient operation of vehicles upon any public right-of-way, street or passageway. No sign shall be permitted that would obstruct the line of sight of motorists or pedestrians at intersections, driveways, or along any public right-of-way, street or passageway. No sign shall be permitted, as specified in NCGS §136-32.2 that would obstruct or resemble traffic signs or signals, or would tend to be confused with a flashing light of an emergency vehicle.

(4) **Signs Constituting Fire Hazards** - No sign shall be permitted to prevent free ingress and egress from any door, window or fire escape.

(5) **Signs Pertaining to Specified Activities or Containing "Vulgar" Words**. No sign shall contain statements, words or pictures which describe or display "specified anatomical areas" or "specified sexual activities," as defined in this Ordinance or which contain words which are classified as "vulgar" or "vulgar slang" in The New College Edition of the American Heritage Dictionary of the English Language.

(6) **Moving Signs** - No sign shall be permitted containing or consisting of banners, posters, pennants, ribbons, balloons, streamers or other similarly moving devices or ornamentation, except as specifically provided herein.

(7) **Flashing Signs and Rotating Light Beams** - No sign shall be permitted which contains or utilizes revolving or rotating beams of light of stroboscopes. No sign shall be erected which flashes, except for time and temperature signs.

(8) **Signs on Vehicles** - No sign shall be placed on a vehicle or trailer which is parked or located for the primary purpose of displaying said sign (this does not apply to permitted portable signs, or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).

(9) **Floating Signs** - Floating Signs shall not be permitted.

**Section 92: Administration, Filing Procedure and Permits**

92-1: **Administration**

The Building Safety Director shall issue a permit for the erection or construction only for a sign which meets the requirements of this Ordinance.
92-2: **Filing Procedure**

Applications for permits to erect, hang, place, paint, or alter the structure of a sign shall be submitted on forms accompanied by a plan showing the following:

1. Area of the sign;
2. Size, character, general layout and designs proposed for painted displays;
3. The method and type of illumination, if any;
4. The location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, public waterways and existing signs; (12/7/87)
5. If conditions warrant it, the Zoning Administrator may require such additional information as will enable him to determine if such sign is to be erected in conformance with the requirements of this Ordinance; and
6. Payment of fee to obtain building permit.

**Section 93: Signs Which do not Require a Permit**

The following types of signs are exempted from the sign permit requirements, but must comply with all other requirements of this Ordinance.

1. Signs used by churches, synagogues, or civic organizations.
2. Construction Signs - One construction sign for each street frontage of a construction project, not to exceed 20 square feet in sign area in residential zones or 35 square feet in sign area in all other zones. Such signs may be erected 10 days prior to beginning of construction and shall be removed within 30 days following completion of construction.
3. Directional/Information Signs - Four freestanding directional/information signs per lot, not to individually exceed 3 square feet in sign area or 30 inches in height.
4. Individual political signs - Non-illuminated political signs, not to individually exceed 12 square feet in sign area. Such signs shall be removed 30 days following the applicable election or referendum. Political signs may be placed only on private property and only with the permission of the property owner, provided that each candidate for political office, or the candidate’s local representative in the case of statewide or national offices, shall apply for a general permit for all personal campaign signs, indicating that the candidate is aware of all regulations concerning political signs, that all supporters receiving said signs will be advised of these regulations and ordered to follow them, and that said signs shall be removed as required by these regulations.
5. Public signs or notices or any sign relating to an emergency.
6. Real Estate Signs - One non-illuminated real estate signs per street frontage, not to exceed 20 square feet in sign area. Such signs must be removed 30 days following rental, sale, or lease.
7. Incidental Signs not to exceed 6 square feet in aggregate sign area per occupancy.
Residence signs, Nameplates or street address numbers, not exceeding 4 square feet in size.

Signs used for bona fide navigational aids.

Flags

Off-Site Real Estate Signs - Off-site real estate signs are generic signs with display content limited to a directional arrow and/or one descriptive phrase of "open house" or "home for sale," and allowed off the premises from where the real estate product is being offered and subject to the following provisions:

(A) Located on private property only with written permission of the applicable property owner. The property owner or real estate agent shall be subject to the applicable penalties for violation of these provisions.

(B) Maximum size is four (4) square feet.

(C) Maximum sign height is three (3) feet, measured from the adjacent ground elevation to the uppermost portion of the sign.

(D) Limitation of one (1) sign per intersection.

(E) No sign shall block any sight distances of any intersection.

(F) No sign shall be placed within a public or private road right-of-way.

(G) All signs shall be freestanding.

(H) No signs shall be placed on trees, utility posts, traffic control signs or other signs.

(I) Signs shall not have lighting, movable elements or flags.

(J) Allowable times of placement are as follows:

1. A sign directing attention to a temporary sales office or model unit in a development of multiple lots or units offered for sale may remain in place seven days a week, for as long as the temporary sales office or model unit is on site.

2. A sign directing attention to any property or properties other than a model unit or sales office as specified in paragraph (a), may remain in place from 4:00 p.m. on Friday to 8:00 a.m. on the following Monday. On the following specified holidays, signs may be posted after 4:00 p.m. the day prior to the actual holiday and must be removed by 8:00 a.m. the day following the holiday:

   a. New Year's Day
   b. Martin Luther King, Jr. Day
   c. Good Friday (Friday before Easter)
   d. Azalea Festival - Friday
   e. Memorial Day
   f. Independence Day
   g. Labor Day
   h. Veteran's Day
   i. Thanksgiving Day - Thursday and Friday
   j. Christmas Day (8/06/01)
Section 94: Signs Which Require a Permit

94-1: **Subdivision Identification Signs**

Two subdivision identification signs per entrance, not to exceed 35 square feet each in sign area. Identification signs may be located on privacy and freestanding walls. Unless otherwise specified, if the identification sign is located on a freestanding wall, the wall shall not exceed 6 feet in height, or the height of the subdivision privacy wall, whichever is greater. (8/06/01)

94-2: **Identification Signs**

One identification sign per apartment or condominium complex entrance, not to exceed 35 square feet in sign area. Identification signs may be located on walls provided such walls do not exceed 4 feet in height and 75 square feet in area.

94-3: **Freestanding Signs in residential areas**

For permitted nonresidential uses, including churches and synagogues, one freestanding sign per frontage, not exceeding 35 square feet in sign area, and 1 marquee sign not to exceed 25 feet in sign area. All permitted freestanding signs shall have a maximum height limit of 6 feet and shall have a minimum setback of 5 feet from any property line. For permitted freestanding signs which are to be illuminated, such illumination must come from a light source which is external to the sign itself.

94-4: **Principal Use Signs**

(1) Freestanding Signs

(A) **Primary** - One primary freestanding sign per premises, as per Table -1 of this Article.

(B) **Auxiliary** - An additional (Auxiliary) freestanding sign shall be allowed for property having in excess of 100 linear feet of road frontage; one auxiliary freestanding sign shall be permitted for each 100 linear feet of road frontage. Auxiliary signs may contain up to 50 percent of the allowable area of primary freestanding signs or 20 square feet, whichever is greater. Auxiliary signs shall not be permitted within 50 feet of any other auxiliary or primary sign located on the same parcel of property. No more than 2 auxiliary freestanding signs shall be permitted on each road frontage for each parcel of property.

(C) **Carolina Beach Road** - Freestanding Signs along Carolina Beach Road shall comply with the provisions of this Section except that only one
Freestanding ground sign not to exceed six (6) feet in height and a maximum surface area of 150 square feet shall be permitted. (8/06/01)

(2) **Wall Signs** - Up to 5 wall signs per occupancy, in aggregate not to exceed 20 percent of the area of the wall to which the signs are attached, up to a maximum size of 250 square feet per each occupancy.

(3) **Under-Canopy Signs** - One under-canopy sign per occupancy, not to exceed 4 square feet in sign area.

(4) **On-Premises Window Signs** - Any principal building may install on-premises window signs, provided:

(A) The area of such signs shall not exceed an aggregate area equal to 10 percent of the total ground floor glassed window area of the building.
(B) Such signs, if located inside the window, may be neon signs.
(C) Such signs are prohibited above the second floor occupancy.

(5) Special regulations and allowances for principal use signs:

(A) **Corner Lots** - Where an occupancy is on a corner or has more than one main street frontage, additional wall sign and additional freestanding sign are allowed on the additional frontage, not to exceed the number and size limitations of other allowed wall and freestanding signs.
(B) **Minimum Clearance** - All freestanding, awning, marquee, and under-canopy signs shall have a minimum clearance of 9 feet over any pedestrian use area.
(C) **Awning Signs** - Three awning signs per occupancy, not to exceed 20 percent of the surface area of an awning.
(D) **Multi-Unit Signs** - Multi-unit signs consist of 3 or more individual identification signs. These individual signs shall be designed to reflect a unified graphic appearance (e.g., size and material type), as determined by the Zoning Administrator. Individual commercial logos are permitted on multi-unit signs so long as they do not constitute more than 25 percent of the area of the applicable individual occupancy identification sign.
Table 1: Freestanding Sign Standards

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Number of Lanes(1)</th>
<th>Street Frontage (Feet)</th>
<th>Front Setback (2)(3) (Min./Max.) (Feet)</th>
<th>Max. Primary Sign Height (Feet)</th>
<th>Max. Aux. Sign Height (Feet)</th>
<th>Max. Primary Sign Area (SF)</th>
<th>Max. Aux. Sign Area (SF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>B-1, PD</td>
<td>2</td>
<td>N/A</td>
<td>10 / 20</td>
<td>20</td>
<td>10</td>
<td>50</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>&lt; 100</td>
<td>10 / 20</td>
<td>20</td>
<td>N/A</td>
<td>50</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; 100</td>
<td>10 / 20</td>
<td>20</td>
<td>12</td>
<td>65</td>
<td>32</td>
</tr>
<tr>
<td>B-2, I-1, I-2, A-I, SC</td>
<td>2</td>
<td>&lt; 100</td>
<td>10 / 20</td>
<td>N/A</td>
<td>65</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; 100</td>
<td>10 / 25</td>
<td>20</td>
<td>18</td>
<td>100</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>&lt; 100</td>
<td>10 / 25</td>
<td>N/A</td>
<td>100</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; 100</td>
<td>10 / 30</td>
<td>25</td>
<td>20</td>
<td>150</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; 300</td>
<td>10 / 30</td>
<td>30</td>
<td>20</td>
<td>175</td>
<td>90</td>
</tr>
</tbody>
</table>

**NOTE (1)** Number of lanes refers to the ultimate number of lanes based upon existing roadway conditions or upon construction plans approved as part of the current NC DOT Transportation Improvement Program.

**NOTE (2)** Notwithstanding the minimum and maximum front setback requirements indicated above, primary freestanding signs which do not exceed 6 feet in height and are less than 76 percent of the maximum sign area established above may be located within 5 feet of the front property line and shall have no maximum front setback.

**NOTE (3)** “Front Setback” refers to the setback from the front or corner side property lines.
### Table 2: Permitted and Prohibited Signs

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>RES</th>
<th>O&amp;I</th>
<th>B-1 PD</th>
<th>B-2 SC</th>
<th>I-1 AI</th>
<th>I-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above Roof</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Animated</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Attached (Wall)</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Awning</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
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<td>P</td>
</tr>
</tbody>
</table>

**Key:**  
- **X** – Prohibited  
- **P** – Permitted  
- **S** – Requires Special Use Permit

**NOTE (1)** See specific sections for area, height, number, setback, location, permitting and other sign requirements.
Section 95: Temporary and Special Event Signs

95-1: **Balloons / Blimps**

Allowed for special events with a permit for up to seven (7) days of consecutive use, 5 times per calendar year per location, subject to the following conditions:

1. The balloon or blimp may not be more than 1,000 cubic feet in size, nor the total of the longitudinal and latitudinal dimensions of the device, measured along their axes, exceed 37 linear feet;
2. The balloon or blimp shall be securely anchored at a point within the applicable setback for buildings in the zoning district where the balloon or blimp is flown;
3. The balloon or blimp may not be flown more than 50 feet in the air unless located at least 100 feet from any active public roadway; its height may thereafter be increased in proportion to its distance from the roadway, to a maximum of 100 feet. (Example: if the device is anchored 125 feet from a road, it may be flown at a height of 75 feet;
4. No balloon or blimp shall be flown in windy conditions (sustained winds of 25 m.p.h. or more) or inclement or stormy weather; all applicable state or federal regulations must be observed;
5. No balloons or blimps may be flown within a 1-mile radius of another such device; and
6. No device authorized by this section may consist of more than 1 balloon or blimp, or have attached to it any streamers, banners or other paraphernalia.

For purposes of this provision, a balloon or blimp may display advertising copy that is not specific to the premises or establishment where the special event is occurring, but may not be displayed at any other premises.

"Special events," as used in this provision includes grand openings, special sales and other promotional activities. If, in the opinion of the Building Safety Director, any balloon or blimp is creating or contributing to a hazardous situation, he may direct that it be removed or that the manner of its display be altered to remove the hazard.

95-2: **Banners**

Allowed for special events with a permit for up to 30 days of consecutive use, 2 times per calendar year (separated by a minimum of 30 days). There shall be no more than 2 banners per occupancy per permit. In the case of public parks, each group or activity will be considered a separate occupancy. Museums and cultural arts centers are permitted continuous, year-round display of 1 banner and there is no time constraint imposed upon any 1 banner's display. A second banner may be permitted in compliance with the banner restrictions applied to other uses. For grand openings, or other special events, a banner may be used for no more than 30 days for 1 time per calendar year. These banners are allowed with a permit in the Commercial and Industrial districts.
95-3: **Flags**

Flags are allowed as specified in Table 3. Ground-mounted flagpoles shall not exceed height limits established in Table 3. Roof-mounted flagpoles shall not exceed the maximum height permitted in each zoning district for roof-mounted antennae. No more than 2 flags shall be permitted per each flagpole not to exceed the cumulative area established in Table 3. The United States, North Carolina, city and county flags are exempt from all restrictions of this Article.

**Table 3: Flag Regulations by District**

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Parcel Size</th>
<th>No. of Flagpoles</th>
<th>Max. Area</th>
<th>Max. Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial &amp; Industrial</td>
<td>Less than 1 acre</td>
<td>3</td>
<td>80 Sq. Ft.</td>
<td>35 Ft.</td>
</tr>
<tr>
<td></td>
<td>1 to 3 acres</td>
<td>5</td>
<td>200 Sq. Ft.</td>
<td>50 Ft.</td>
</tr>
<tr>
<td></td>
<td>3 to 10 acres</td>
<td>10</td>
<td>200 Sq. Ft.</td>
<td>50 Ft.</td>
</tr>
<tr>
<td></td>
<td>More than 10 acres</td>
<td>10</td>
<td>800 Sq. Ft.</td>
<td>80 Ft.</td>
</tr>
<tr>
<td>All Other</td>
<td>N/A</td>
<td>1</td>
<td>80 Sq. Ft.</td>
<td>35 Ft.</td>
</tr>
</tbody>
</table>

95-4: **Pennants**

Prohibited except as navigational aids, or if used by a religious activity or by an educational or charitable organization (see Flags).

95-5: **Portable Signs**

Allowed with a permit for up to 30 days of consecutive use, 2 times a calendar year (separated by a minimum of 30 days) for parcels zoned commercial or industrial; prohibited elsewhere. Portable signs cannot exceed 35 square feet in size and 6 feet in height, or be located within 5 feet of any property line; one portable sign per parcel. At the expiration of the permit period, the sign, which includes the lettering as well as the signage cabinet, shall be removed.

**Section 96: Outdoor Advertising Signs**

(5/4/87)

96-1: **Where Permitted**

Outdoor advertising signs and structures that comply with the provisions of this Ordinance shall be permitted in I-1, I-2 and A-1 zoning districts provided the specific outdoor advertising sign location is 400 feet or more from any residential zoning district, place of worship, public park, or school. Outdoor advertising signs shall not be constructed within areas designated under the SHOD district. Outdoor advertising signs
shall not be permitted in, upon, or over any navigable public waterway, marsh, or within 400 feet landward of the mean high water line.

96-2: **Location, Setbacks and Spacing of Outdoor Advertising Signs**

(1) **Setbacks** - Each outdoor advertising sign shall comply with the applicable setback requirements of the district in which it is located. In no case, however, shall an outdoor advertising sign be located less than 10 feet from any right-of-way or property line.

(2) **Corner Lots** - No part of an outdoor advertising sign may be located within a triangular area formed by the street right-of-way lines and a line connecting them at points 50 feet from the right-of-way intersection.

(3) **Spacing of Outdoor Advertising Signs** - No part of any outdoor advertising sign shall be located less than 1,000 feet from any part of another outdoor advertising sign.

(4) **Back of Outdoor Advertising Sign** - The backs of all outdoor advertising signs shall be painted in a neutral color to blend with the surrounding area and to prevent the reflection of car lights and sunlight.

96-3: **Single Outdoor Advertising Sign Structure**

An outdoor advertising sign shall be considered as one sign structure when it is designed to be viewed from:

(1) One direction and consists of a single face sign placed in such a manner to be viewed by one directional flow of traffic; or

(2) Two directions and consists of two sign faces arranged either back-to-back or in a V-shape.

(3) In no case shall there be more than 1 sign face per directional flow of traffic.

96-4: **Area and Height Requirements for Outdoor Advertising Signs**

(1) No outdoor advertising sign facing streets with 4 or more traffic lanes may exceed 150 square feet; outdoor advertising signs facing streets with fewer than 4 traffic lanes may not exceed 75 square feet. The allowable sign area of outdoor advertising signs with equal size and shape for both double-faced (back-to-back) and V-type outdoor advertising signs is measured by computing the area of only one side of the outdoor advertising sign. Both sides of a double-faced or V-type outdoor advertising sign shall be of equal size. No point on either side shall be more than 15 feet from the nearest point of the other side.

(2) No outdoor advertising sign or part thereof, including base, apron, supports, supporting structures, and trim, may exceed 30 feet in height. Rooftop outdoor advertising signs are prohibited.
96-5: **Inspection of Outdoor Advertising Signs**

The Building Safety Director shall inspect all outdoor advertising signs periodically to determine that the same are in a safe condition and meet the requirements set forth in this section.

96-6: **Clearance for Overhead Electrical Conductors**

Outdoor advertising signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code specifications, provided that no outdoor advertising sign, except official traffic signs, shall be installed closer than 10 feet horizontally or vertically from any conductor or public utility guy wire.

96-7: **Illumination**

All outdoor advertising sign illumination devices shall be in conformance with the North Carolina State Building Code, Volume IV and all other state and local codes governing illumination. All illumination shall be designed so as to be contained to the sign area of the outdoor advertising sign.

96-8: **Back of Sign**

The backs of all outdoor advertising signs shall be painted in a neutral color to blend in with the surrounding area.

96-9: **Trimming of Vegetation Prohibited**

There shall be no trimming of vegetation on public property or rights-of-way to make any outdoor advertising sign more visible.

96-10: **Maintenance**

All outdoor advertising signs shall be maintained in a state of good repair. Whenever it shall appear to the Building Safety Director that any outdoor advertising sign has been constructed or is being maintained in violation of the terms of this section or is unsafe or insecure, such outdoor advertising sign shall either be made to conform with all outdoor advertising sign regulations or shall be removed at the expense of the owner, within 10 days after written notification thereof by the Building Safety Director.

96-11: **Removal of Obsolete Outdoor Advertising Signs**

Outdoor advertising sign messages which advertise a discontinued activity or use of a building or premise shall be removed within 60 days from the date the activity or use was terminated. Outdoor advertising signs advertising events such as shows, displays, festivals, circuses, fairs, athletic contests, dances, fund drives, elections, exhibits,
meetings, conventions and the like shall be removed within 30 days after the date of termination of such events.

Section 97: Nonconforming Signs

97-1: **Determination of Nonconformity**

Existing signs which do not conform to the specific provisions of this Ordinance may be eligible for the designation "nonconforming" provided that:

1. The Building Safety Director determines that such signs are properly maintained and do not in any way endanger the public;
2. The sign was covered by a valid permit or variance or complied with all applicable laws on 8/06/01;
3. Deleted (5/21/12)

97-2: **Loss of Nonconforming Status**

A nonconforming sign may lose its nonconforming designation if:

1. The sign is relocated or replaced; or
2. The structure of the sign is altered in any way except towards compliance with this Ordinance. This does not refer to change of copy or normal maintenance.

97-3: **Maintenance and Repair of Nonconforming Signs**

Nonconforming signs are subject to all requirements of this Ordinance regarding safety, maintenance, and repair. However, if the sign suffers more than 50 percent appraised damage or deterioration; it must be removed or brought into conformance with this Ordinance.

97-4: DELETED (05/21/2012)
ARTICLE X: ADMINISTRATION AND ENFORCEMENT

Section 100: Administration and Enforcement

100-1: The Planning and Land Use Director shall designate responsibility for administration and enforcement of this Ordinance. Such duties will be fulfilled by a trained and knowledgeable zoning administrator or compliance official who may delegate administrative or enforcement duties to zoning official(s). (11/2/87)

100-2: If the zoning administrator or other zoning official shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

100-3: For penalties and procedures see Section 132 of this ordinance. Enforcement will be in accordance with the provisions of NCGS 153A-324 which states:
   (a) In addition to the enforcement provisions of this Article and subject to the provisions of the ordinance, any ordinance adopted pursuant to (Chapter 153A, Article 18), may be enforced by any remedy provided by G.S. 153A-123.
   (b) If the county is found to have illegally exacted a tax, fee, or monetary contribution for development or a development permit not specifically authorized by law, the county shall return the tax, fee or monetary contribution, plus interest of six percent (6%) per annum.

Section 101: Building Permits or Zoning Permits

101-1: After the adoption of this Ordinance no new uses other than bona fide farms shall be established unless a building or zoning permit is applied for and approved by the zoning official. No permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Adjustment.

Section 102: Application for Building Permit or Zoning Permit

102-1: All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; the location and dimensions of the proposed building or alteration and evidence of New Hanover County Board of Health’s approval of the sewage disposal system or commitment of sewer capacity from the Cape Fear Public Utilities Authority or a permitted private provider. The application shall include such other information as may be required by the zoning administrator including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families or rental units the building is designed to accommodate; conditions
existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

102-2: One copy of the plans shall be returned to the applicant by the zoning official after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. Should the zoning official disapprove an application for a building permit or zoning permit the reasons for disapproval shall be listed on the application. The second copy of the plans, similarly marked, shall be retained by the zoning administrator.

102-3: Each application for a building permit or zoning permit shall include information as to the location of applicable areas of Environmental Concern. Prior to the issuance of a building permit, the zoning administrator shall certify that the proposed structure or facility is in accordance with the State Guidelines for Areas of Environmental Concern. (11/6/78)

102-4: In addition to satisfying the foregoing requirements, applications for building permits in Performance Residential and High Density development shall include duplicate copies of an approved site plan meeting requirements of Section 60.1 of this Ordinance. (See Sections 51.1-2 and 72-43 for more information about Performance Residential development or High Density development.)

102-5: If the use is located within a COD and performance controls are required under Section 55.1, an application plan for a building or zoning permit shall include information as to the types, boundaries, areas, and required setbacks for all conservation resource areas. Information concerning these areas is available at the County Planning and Land Use Department. The applicant shall obtain a letter of verification from the Planning and Land Use Department that the conservation resource areas are accurately mapped on the application plan.

102-6: If a building permit or zoning permit is applied for a use within a COD and if required by Section 55.1-5, a drainage plan and calculations meeting the design standards shall be submitted to the County Engineer for approval. The County Engineer shall analyze the plan in accordance with the applicable regulations and provide a written response approving or disapproving the plan. Disapproved plans shall be forwarded to the applicant. Approved plans shall be forwarded to the Building Safety Director to be processed under the requirements of Section 102.

Section 103: Expiration of Building Permit

103-1: If the work described in any building permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Building Safety Director and written notice thereof shall be given to persons affected.

103-2: If after commencement, the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire and be cancelled by the Building Safety Director and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.
Section 104: Building Permit or Zoning Permit for New or Altered Uses

104-1: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a building permit or zoning permit shall have been approved therefore by the zoning official stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

104-2: No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a building permit or zoning permit. The permit shall be issued in conformity with the provisions of this Ordinance upon completion of the work.

104-3: A temporary building permit may be approved by the Building Safety Director for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion. A temporary zoning permit may be approved by the zoning official for a period not exceeding one (1) month for bazaars, carnivals, religious revivals, sideshows, concerts, or sporting events. Such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public, as well as the concurrence of the airport authority for these uses in the A-I district. (3/12/01)

104-4: The Building Safety Director and Zoning Administrator shall maintain a record of all building and zoning permits and a monthly summary of all permits issued shall be made available to the public.

104-5: Failure to obtain a building permit or zoning permit, as applicable, shall be a violation of this Ordinance and punishable under Article XIII, Section 132 of this Ordinance.

Section 105: Construction and Use to be Stated on Building Permits

105-1: Building Permits issued on the basis of plans and applications approved by the Building Safety Director and zoning official authorize only the use, arrangements, and construction set forth in such approved plans and applications. Use, arrangements, or construction at variance with that authorized shall be deemed a violation of this Ordinance and punishable as provided in Article XIII, Section 132.

Section 106: Right of Appeal

106-1: If the building permit is denied, the applicant may appeal the action of the zoning official to the Board of Adjustment.

Section 107: Certificate of Occupancy
107-1: No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Building Safety Director has issued a Certificate of Occupancy therefore. A temporary Certificate of Occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building.

107-2: Application for a Certificate of Occupancy may be made by the owner or his agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this Ordinance and appropriate regulatory codes of the County for the occupancy intended. The Building Safety Director shall issue a Certificate of Occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of the Ordinance and appropriate regulatory codes of the County for the occupancy intended.

107-3: A Certificate of Occupancy shall not be issued for any dwelling unit in a Performance Residential, High Density Development, or Planned Development until such time as a homeowners association meeting the requirements of Section 60.5 of this Ordinance has been established, and the necessary documents recorded at the Register of Deeds. (8/20/84)

107-4: Certificates of Occupancy for Performance Residential Developments, High Density development and Planned Development shall not be issued until one of the following conditions has been complied with:

(1) Completion of all improvements required by this Ordinance.
(2) A bond or certified check has been posted.
(3) An irrevocable letter of credit has been posted. (3/22/82)

Section 108: Duties of Zoning Administrator, Board of Adjustment, Courts and County Commissioners as to Matters of Zoning Appeal

108-1: It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Director of Planning & Land Use or when so delegated to the Zoning Enforcement Official and that such questions shall be presented to the Board of Zoning Adjustment only on appeal from the Director of Planning & Land Use or Zoning Enforcement Official; and that from the decision of the Board of Adjustment recourse shall be to the courts as provided by law. (11/2/87)

108-2: It is further the intention of this Ordinance that the duties of the County Commissioners in connection with the Ordinance shall not include the hearing and passing of disputed questions that may arise in connection with the enforcement thereof, but only considering and passing upon any proposed amendment or repeal of the Ordinance.

Section 109: Vesting Rights and Development Agreements

109-1: Vesting Rights
Any site specific development plan approved by the County pursuant to this Ordinance shall terminate as follows:

(a) at the end of the applicable vesting period with respect to building and uses for which no valid building permit applications have been filed.

(b) with the written consent of the affected landowner;

(c) following recommendations by the Planning Board and upon findings by County Commissioners, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

(d) upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant’s fees incurred after approval by the County, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

(e) following recommendation of the Planning Board and upon findings by the County Commissioners, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

(f) upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, by ordinance after notice and a hearing. (10/7/91)

109-2: Development Agreements

In addition to the requirements of this Ordinance and as provided in NCGS 153A-Part 3A, the County Commissioners after conducting a public hearing may enter into private development agreements. These development agreements may require a commitment of public and private resources for large scale projects. Such projects must contain at least 25 acres or more exclusive of wetlands, mandatory buffers, and other portions of the property precluded from development. In entering into such agreements, the County may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law. (1/06)
ARTICLE XI: AMENDMENTS

Section 110: Amending the Ordinance
(1/2/90)

110-1: For the purpose of promoting health, safety, morals or the general welfare, the County Commissioners may amend the text regulations and zoning map according to the procedures in this article for certain types of zoning map changes. Additional provisions in other Sections of the zoning Ordinance listed below also apply:

(1) Planned Development District - See Section 54.2.
(2) Shopping Center District - See Section 52.4.
(3) Conditional Use District - See Section 55.2.
(4) Conditional Zoning District - See Section 55.3.
(5) Riverfront Mixed Use District – See Section 54.3.

Section 111: Petition
(1/2/90)

111-1: Initiation of Amendments

Proposed amendments may be initiated by the County Commissioners, Planning Board, Board of Adjustment, or by one (1) or more interested parties, except that petitions to create a Planned Development, Shopping Center, Conditional Use District, or Conditional Zoning District shall be submitted only in the names of all the owners of all the included real property.

111-2: Petition Content

A petition for any amendment shall contain a description of the proposed zoning regulation or district boundary to be applied.

111-2.1: Required community information meeting before consideration

Before an application will be accepted as complete for a zoning amendment or special use permit for proposals involving Planned Development, Riverfront Mixed Use District, Conditional Use Zoning District, Conditional Zoning District, Exceptional Design Zoning District, (11/13/12) or special use permits for uses classified as intensive manufacturing the petitioner must include a written report of at least one (1) community information meeting held by the petitioner. The community meeting shall be held prior to submission.
of the application for map amendment, but after a pre-application conference with Planning & Land Use staff, (11/13/12) for projects that require a pre-application conference. The primary purpose of the community meeting is to explain the upcoming proposal and field questions from people in the surrounding area.

The applicant shall provide written notice by mail or other agreed upon measure at least ten days prior to the date of the neighborhood meeting. Notice shall be provided to each owner of record of land and any current tenants within 500 feet of and on the property for which development approvals are sought. Notice shall also be provided to (11/13/12) organizations entitled to notice based on a standing written request on file with the Clerk to the Planning Board (“Sunshine List”). The meeting should focus on information exchange between an applicant and the specific invitees but should be open to the general public as well.

The report shall include, at a minimum the following:

1. A list of those that were not able to be contacted and reason(s) why contact was not successful
2. Date, time and location of the meeting;
3. Roster of the persons in attendance at the meeting;
4. Summary of issues discussed at the meeting; and
5. Description of any changes or adjustments to the rezoning petition made by the petitioner as a result of the community meeting.

In the event the petitioner has not held at least one (1) meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Planning Board in its decision and by the County Commissioners, as appropriate but shall not be subject to judicial review. (9/07)

111-3: Submittal Procedure

1. All necessary forms are available from the Planning and Land Use Department. The Department will upon request provide instructions, interpret applicable requirements and discuss the compatibility of the proposed change with such requirements. Such assistance shall not be construed as support for the proposal.
2. Since major factors in considering a petition for a zoning map change are the impact of the proposed change on the value of adjoining parcels and its compatibility with its surroundings, petitioners for such changes are encouraged to consult with owners of adjoining parcels and other potentially affected parties before submittal.
3. Petitions must be received by the Planning and Land Use Department not later than twenty (20) working days prior to the Planning Board meeting at which the application is to be considered.
4. After a final action has occurred on a petition, a new application for any portion of the
tract included in the present petition may be accepted within twelve (12) months from the date of the final action if a substantial change has been made to the original petition. (11/13/12)

(5) If the last previous petition was withdrawn after the public notice for its scheduled public hearing has been delivered to the newspaper under the provisions of Section 112-1(4), a petition may be accepted within twelve (12) months from the date of such scheduled hearing if a substantial change has been made to the original petition. (11/13/12)

(6) A rezoning petition withdrawn before the public notice of scheduled public hearing before the Planning Board has been delivered to the newspaper does not restrict the timing of later petitions in any way.

(7) All requests for continuances of proposals and petitions involving a change of zoning shall be subject to the following policies:

(A) If an applicant requests that an item be delayed for consideration on the Planning Board agenda, the request must be in writing to the Planning and Land Use Director and must include the reason(s) for the requested delay. If the request is received:

1. Prior to notice being sent to the newspaper for advertising, the Planning and Land Use Director may remove it from the agenda and calendar it for the next meeting. No additional fee will be required. Only one administrative continuance is allowed per permit application.

2. After notice has been sent to the newspaper, the item will remain on the agenda and the Planning Board will act on the request for continuance of the item at the meeting. The Board is under no obligation to grant a continuance. If continued, a fee in accordance with the adopted fee schedule will be charged and the item will be rescheduled for the next upcoming meeting of the board or some other date certain. If the applicant fails to appear at the meeting or fails to pay the additional fee by the publication deadline, the proposal will be deemed withdrawn, and a new application process will be required.

(B) If an applicant requests delay of consideration from the Board of County Commissioners agenda, the request must be in writing to the County Manager, copied to the Planning and Land Use Director, and must include the reason(s) for the request. If the request is received:

1. Prior to notice being sent to the newspaper for publication, the Planning and Land Use Director will remove the item from the list of planning items being sent for the Manager’s agenda and calendar it for the next regular night meeting. The Planning and Land Use Director will immediately cause correction of the signage posted noticing the public hearing. A fee in accordance with the adopted fee schedule will be paid to the NHC Planning and Land Use Department to offset the cost of fuel and staff time to correct the signage.
2. After notice has been sent to the newspaper, the item will remain on the agenda and the Commissioners will act on the request for continuance of the item at the advertised meeting. The Commissioners are under no obligation to grant a continuance and may choose to hear the item and act on it. If continued, a fee in accordance with the adopted fee schedule will be paid and the item will be rescheduled for the next regular hearing meeting or some other date certain. If the applicant fails to appear at the meeting or fails to pay the additional fee by the publication deadline, the proposal will be deemed withdrawn, and a new application process will be required. (9/07)

111-4: **Fees**

A fee to be established by the County Commissioners shall be paid to the County of New Hanover, North Carolina, to cover necessary administrative and advertising costs.

**Section 112: Approval Process**

(1/2/90)(11/13/12)

112.1: (1) Whenever a zoning classification change or Special Use Permit is proposed, the Planning and Land Use Department shall notify all owners of the subject tract and all owners of all parcels within 500 feet (11/13/12) of the proposed classification change or Special Use Permit by first class mail at the last address listed for such owner on the County tax abstracts. All tenants of the subject tract and parcels within 500 feet of the subject tract will be notified where practicable. (11/13/12) The person mailing such notices shall certify to the County Commissioners of that fact. Notices shall be mailed no later than ten (10) days prior to the first scheduled public hearing for the petition or application and shall contain adequate information to notify such owners of the specific request of the petitioner/applicants as well as the time, date, and location of the public hearing.

(2) Failure of any addressee to receive notification shall not in any way invalidate or affect subsequent action on the petition or application unless due to failure to follow the above notification requirements, in which case the County Commissioners shall determine the appropriate remedy.

(3) No later than ten (10) days prior to each scheduled public hearing, the Planning and Land Use Department shall post a clearly legible sign or signs on the property and/or its approaches to indicate the time, date, and place of the hearing and how additional information may be obtained. Sign location or locations shall be selected to insure visibility to neighboring residents and passersby.

(4) In each of the two (2) calendar weeks preceding the County Commissioners’ public hearing, the Planning and Land Use Department shall publish in the local newspapers a Notice of Public Hearing indicating the time, date, and place of the hearing and giving a brief description of the rezoning and Special Use Permit proposals on the agenda.

112-2: **Planning and Land Use Department Review**
(1) The Planning and Land Use Department shall review each proposed zoning amendment and advise the petitioners on modifications needed to satisfy applicable requirements. Such advice shall not be construed as support for the proposal. Where appropriate, the petitioners may be encouraged to consult the owners of adjoining parcels and other affected parties.

(2) The Planning and Land Use Department shall make recommendations to the Planning Board as to the adequacy of each petition. These recommendations shall include any further modifications which, in the opinion of the Department, are needed to satisfy applicable requirements.

112-3: Planning Board Consideration

(1) The Planning Board shall consider each proposed zoning amendment at a regularly scheduled public hearing advertised as described in Section 112-1 above and held in accordance with its Rules of Procedure then in effect, and make recommendations to the County Commissioners.

(2) In lieu of separate consideration, the Planning Board may review a proposed amendment in a joint meeting with the County Commissioners at a public hearing held in conformity with the requirements of this Section.

(3) A recommendation for denial ends consideration of the proposed zoning amendment unless the recommendation is appealed. A recommendation for approval is automatically forwarded to the County Commissioners for action. If there is no recommendation within 30 days of the public hearing, the petitioners may elect to have their petition or application forwarded to the County Commissioners for action without a Planning Board recommendation.

(4) If a Conditional Use District proposal is being considered, special procedural provisions listed in Section 55.2 apply.

(5) The Planning Board shall advise and comment on whether the proposed amendment is consistent with the County’s Policies for Growth and Development and any other adopted plans that may be applicable. (2/6/06)

112-4: Appeal of Planning Board Recommendations

Petitions that receive an unfavorable or adverse recommendation may be appealed to the County Commissioners by filing a signed letter identifying the petition they wish to appeal with the Clerk to the Board not later than the tenth day following the public hearing at which the adverse decision was made. All such appeals shall be heard at a public hearing scheduled by the County Commissioners.

112-5: Action by the County Commissioners

(1) The County Commissioners shall consider the Planning Board's recommendation for each proposed zoning amendment, unless the Planning Board recommends denial and the petition is not appealed at a regularly scheduled public hearing, advertised as described in Section 112-1 above and held in accordance with its
rules of procedure then in effect. No amendment shall be adopted by the County Commissioners until after public notice and hearing. Prior to adopting or rejecting any zoning amendment, the Commissioners shall adopt a statement describing whether its action is consistent with the County’s Policies for Growth and Development and explaining why the Commissioners consider the action taken as reasonable and in the public interest. (2/6/06)

(2) The Planning and Land Use Department shall provide the Commissioners with copies of the petition as voted upon by the Planning Board and the Planning Board’s specific factual findings and analysis leading to its recommendation prior to the public hearing.

(3) The Planning Board Chairman, or his designee, shall review the proposed zoning amendment, the Board’s recommendation and the factual findings, and analysis leading to the recommendation at the hearing.

(4) If a Conditional Use District proposal is being considered, special procedural provisions listed in Section 55.2 apply.

(5) A cause of action as to the validity of this Zoning Ordinance, or amendment thereto, adopted by the County Commissioners shall accrue upon adoption of the Ordinance or amendment thereto, and shall be brought within two months as provided in General Statutes 1-54.1 as amended. (9/02/97)

112-6: Failure to Proceed in a Timely Manner
(12/17/2012)

If within 24 months from the date of approval of the petition for a special use permit, conditional use district, conditional zoning district, exceptional design zoning district, or riverfront mixed use district, a building permit has not been issued for the subject tract(s), the Planning and Land Use Director shall consider a request for an extension if submitted in writing to the New Hanover County Planning and Land Use Department prior to the expiration. The Planning and Land Use Director may grant a one (1) year extension so long as site conditions have not substantially changed since the original petition was approved. If site conditions have substantially changed, the Board of County Commissioners will consider whether an extension shall be granted during a regularly scheduled public meeting. The total vesting period for extensions may not exceed five (5) years.

112-7: Administrative Review
(9/3/2013)

(1) Minor Changes made to an approved Conditional Zoning District, Conditional Use District, Exceptional Design Zoning District, Planned Development District, or Riverfront Mixed Use District shall be considered in the same manner as that used for Special Use Permits as set forth in Section 71-1(9).

(2) Any request for a change to an approved Conditional Zoning District, Conditional Use District, Exceptional Design Zoning District, Planned Development District, or Riverfront Mixed Use District that does not qualify as a minor change under the
provisions of Section 71-1(9) of the Zoning Ordinance shall be submitted as a new zoning map amendment application.
ARTICLE XII: BOARD OF ADJUSTMENT

Section 120: Creating the Zoning Board of Adjustment

120-1: The New Hanover County Board of Commissioners shall provide for the appointment of the New Hanover County Board of Adjustment (hereinafter called the Board). Insofar as possible, members of the Board shall be appointed from different areas within the County's zoning jurisdiction. In the event that less than the entire County is zoned, at least one (1) resident of each area which is zoned shall be appointed to the Board; however, the Board shall consist of a minimum of five (5) members. Insofar as possible, initial appointment to the Board shall be as follows: one-third (1/3) for a term of (3) years; one-third (1/3) for a term of two (2) years; and one-third (1/3) for a term of one (1) year. Two (2) or more alternates may be appointed for a term of three (3) years. (4/1/96) Vacancies shall be filled for the unexpired term only. Members of the Board of Adjustment may be removed for cause by the County Commissioners upon written charges and after public hearing.

120-2: Meetings - The Board shall elect one (1) of its members as Chairman and another as Vice Chairman who shall serve one (1) year. The zoning administrator shall serve as secretary to the Board of Adjustment. The Board shall draw up and adopt the rules of procedure under which it will operate. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action. (3/7/83)

Section 121: Filing and Notice for an Appeal

121-1: Appeals from the enforcement and interpretation of this Ordinance and appeals for variances may be taken to the Board of Adjustment by any person aggrieved or by any office, department, board or bureau of the County affected. Notice of an appeal to the Board of Adjustment shall be filed with the zoning administrator within thirty (30) days of receipt of the decision. An appeal stays all proceedings in furtherance of action appealed from, unless the zoning administrator files a Certificate stating that by reasons of facts stated in the Certificate a stay would, in his opinion, interfere with enforcement of the Ordinance because the violation is transitory in nature, or would cause imminent peril to life and property. The zoning administrator shall have one (1) copy of said certificate delivered by registered mail or by personal service to the appellant and to each member of the Board within ten (10) calendar days from the date the appeal is filed with the zoning administrator. The Certificate shall also be placed on file in the Office of the zoning administrator for public inspection and recorded in the minutes of the next meeting of the Board. Where said Certificate is filed by the zoning administrator, proceedings in furtherance of the original order shall not be stayed otherwise than by restraining order which may be granted by a court of record within New Hanover County. (3/6/78, 3/10/14)
121-2: Hearing of the Appeal - After receipt of notice of an appeal, the Board Chairman shall schedule the time for a hearing, which shall be at a regular or special meeting.

121-3: Notice - At least one (1) week prior to the date of the hearing, the zoning administrator shall furnish the appellant and all property owners of the subject tract and property owners within 500 feet of the subject tract with written notice of the hearing. All tenants of the subject tract and parcels within 500 feet of the subject tract will be notified where practicable. (11/13/12) Notice of Public Hearing shall be published once a week for two (2) successive calendar weeks in the local newspaper. Public notice shall also be posted on the property concerned indicating the proposed change and date of public hearing. (3/10/14)

121-4: Fees for Appeal Variances - A fee to be established by the County Commissioners shall be paid to the County of New Hanover, North Carolina to cover necessary administrative costs and advertising expenses. (8/2/82)

Section 122: Powers and Duties

122-1: The Zoning Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any decision made by the zoning administrator or other administrative officials in the carrying out or enforcement of any provision of the Ordinance. A majority of the members of the Board shall be necessary to reverse, wholly, or partly, any such decision. Vacant seats and disqualified members are not considered in calculating majority. (2/6/06, 3/10/14)

(2) To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. No change in permitted uses may be authorized by variance. (2/6/06) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. A concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to grant a variance. A variance from the terms of this Ordinance shall not be granted by the Board unless and until the following findings are made: (3/7/83)

   (A) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance;
   (B) That the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit;
   (C) In granting the variance, the public safety and welfare have been assured and substantial justice has been done.

To assist in following those guidelines, the Board of Adjustment shall use the variance order procedures outlined in the following form:
COUNTY OF NEW HANOVER, NORTH CAROLINA
ORDER GRANTING / DENYING A VARIANCE

The Board of Adjustment for the County of New Hanover, having held a public hearing on (date) to consider application number, submitted by (name of applicant), a request for a variance to use the property located at (address of property) in a manner not permissible under the literal terms of the ordinance, and having heard all the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. It is the Board's CONCLUSION that, if the applicant complies with the literal terms of the ordinance, specifically section(s), _______________________ he (can/cannot) secure a reasonable return from his property. This conclusion is based on the following FINDINGS OF FACT:

____________________________________________________________________________

2. It is the Board's CONCLUSION that the hardship of which the applicant complains (results/does not result) from unique circumstances related to the applicant's land. This conclusion is based on the following FINDINGS OF FACT:

____________________________________________________________________________

3. It is the Board's CONCLUSION that the hardship is not the result of the applicant's own actions. This conclusion is based on the following FINDINGS OF FACT:

____________________________________________________________________________

4. It is the Board's CONCLUSION that, if granted, the variance (will/will not) be in harmony with the general purpose and intent of the ordinance and (will/will not) preserve its spirit. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

____________________________________________________________________________

5. It is the Board's CONCLUSION that, if granted, the variance (will/will not) secure the public safety and welfare and (will/will not) do substantial justice. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following:

____________________________________________________________________________

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be (GRANTED/DENIED), subject to the following conditions:

____________________________________________________________________________

Ordered this ___ day of __________________, 20__.

_____________________________  ______________________________
Chairman                                Secretary to the Board

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of New Hanover County within 30 days after the date this order is served on you. See Section 123-1 of the Zoning Ordinance. (1/4/93)
Section 123: Appeal from the Zoning Board of Adjustment

123-1: An appeal from the decision of the Zoning Board of Adjustment shall be subject to review by the Superior court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the Board is filed in the Office of the Clerk to the Board, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk or Chairman of the Board at the time of the hearing of the case, whichever is later. (3/7/83)
ARTICLE XIII LEGAL PROVISIONS

Section 130: Provisions of Ordinance Declared to be Minimum Requirements

The provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted regulations, the most restrictive or that imposing the higher standards, shall govern.

Section 131: Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the zoning administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

Section 132: Enforcement of Ordinance

This ordinance may be enforced by any one or more of the remedies authorized by G. S. S153A-123, including but not limited to the following:

132-1: Violation of this ordinance subjects the offender to a civil penalty of one hundred dollars ($100.00) for a first offense, two hundred dollars ($200) for a second offense, and three hundred dollars ($300) for a third and subsequent offense to be recovered by the County in a civil action in the nature of debt if the offender does not pay the penalty to the county Finance Office within fifteen (15) calendar days after the offender has been cited for a violation. Violation of this ordinance shall result only in civil penalties and/or civil action set forth herein and shall not entail criminal sanctions. (1/5/98)(1/23/12)

132-1.1: Enforcement Procedure
(A) Upon observation or reporting of an alleged violation, the zoning official shall investigate the case and make a determination as to whether a violation has occurred in accordance with Section 100-2 of this ordinance. If the zoning official determines that there is a violation, a notice of violation shall be issued to the owner and occupant by certified or registered mail as well as first class mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property:
(1) That the land, building, sign, structure or use is in violation of this ordinance;
(2) The nature of the violation, and citation of the section of this ordinance violated; and
(3) The measures necessary to remedy the violation.
(B) If a land use is commenced without proper zoning authorization, the zoning official shall instruct the owner or occupant in writing to immediately cease the unauthorized
use and apply for appropriate permits or authorizations prior to resumption of the use.

(C) Any owner and/or occupant who has received a Notice of Violation may appeal in writing the decision of the zoning official to the Board of Adjustment in accordance with Section 121-1 of this ordinance. If the Board of Adjustment shall affirm that the owner and/or occupant is in violation of the ordinance, it shall make an order in writing to the owner and occupant affirming the violation and ordering compliance. In the absence of an appeal, the remedies and penalties sought by the zoning official shall be final.

(D) Except in the case of an order to cease a land use, if a violation is corrected within three (3) days of the date of notice of violation, no penalty will be levied. However, if the same violation recurs within the same year, it will be considered the second offense and penalties will be levied each day as outlined in Sec. 132-1.

(E) If there is no approved plan in place for corrective action within three (3) days of the date of notice of violation, penalties will accrue as described above, and the first day of violation will be the date on the notice of violation. The zoning official may approve a plan for corrective action with specific benchmarks and continuous progress when the nature of the violation merits such a plan. The plan shall be binding on the violator and shall be in writing and included in the case file.

(F) After the violation has been remedied, if penalties have accrued to a sum over $5,000, owners and/or occupants may request consideration of an alternative equitable settlement of penalties through the office of the County Manager. A letter of justification and approval shall be included in the case file when penalties are reduced.

(G) The zoning official may withhold or deny any permit, certificate, occupancy, or other form of authorization on any land, building, sign, structure, or use in which there is an uncorrected violation.

132-2: This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

132-3: This ordinance may be enforced by injunction, order of abatement, or both, as provided in G. S. 153A-123(e).

132-4: Each day's continuing violation of the ordinance is a separate and distinct offense.

Section 133: Approval of the New Hanover County Health Department or Cape Fear Public Utility Authority

The Building Safety Director shall not issue a building permit for any structure which requires the New Hanover County Health Department's or the Cape Fear Public Utility Authority's approval for the installation of a sewage disposal system until such approval has been granted by the New Hanover County Health Department or the Cape Fear Public Utility Authority. Evidence of approval shall accompany the application for a building permit.
Section 134: Separability Clause

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 135: Responsibility

Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this ordinance, or the terms and conditions of any permit or other authorization granted pursuant to this ordinance, shall constitute a violation of this ordinance One or more of the following responsible parties may be held responsible for a violation of this ordinance and be subject to the remedies and penalties provided in this Section:

A. A contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this ordinance, and
B. An owner of the property, on which a violation of this ordinance occurs, and any tenant or occupant of that property who has control over, or responsibility for, its use or development. However, violations by tenants shall subject the owner only to civil penalties and/or civil action set forth in Sections 132-2 through 132-5 of this Ordinance and G.S. §153A-123(a), (c), (d), (e), (f), and (g), and said owner shall not incur criminal penalties for violations by his tenants. This owner’s responsibility provision shall in no way relieve any tenant from liability for any violations of this ordinance. (1/3/89)

Section 136: Effective Date

This Ordinance shall take effect and be in full force from and after its adoption by the County Commissioners of the County of New Hanover, North Carolina, this the 15th day of October, 1969. Subsequent revisions will take effect as adopted.