

**AN ORDINANCE AMENDING  
THE CODE OF ORDINANCES  
OF THE TOWN OF CARTHAGE**

BE IT ORDAINED by the Board of Commissioners of the Town of Carthage, North Carolina, that the Code of Ordinances of the Town is hereby amended by rewriting Chapter 100 Zoning Ordinance and Chapter 96 Subdivision Ordinance in their entirety by placing Chapter 96 as Reserved and by creating a new Chapter 100 to read as follows:

**Chapter 100 Development Ordinance**

**Division I Administrative Provisions**

**Article 1. General Legal Provisions**

**Sec. 100.1 Purpose**

The development regulations and zoning districts as herein set forth have been made in accordance with a comprehensive plan and for the purpose of (1) Promoting the public health, safety and general welfare; (2) Promoting the orderly growth and development of the Town of Carthage and the surrounding area; (3) Lessening congestion in the street and roads; (4) Providing adequate light and air; (5) Securing safety from fires, panic and other dangers; (6) Preventing the overcrowding of land; (7) Avoiding undue congestion of population; (8) Facilitating the adequate and efficient provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things to the character of each Zoning District and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Jurisdiction. In addition, the regulations set forth herein are intended to implement all the purposes set forth in the authorities enabled by Chapter 160D of the General Statutes of North Carolina.

**Sec. 100.2 Authority**

This Ordinance is enacted pursuant to the authority conferred by Chapter 160D of the General Statutes of North Carolina.

**Sec. 100.3 Title**

This Ordinance shall be known as the Development Ordinance of the Town of Carthage, North Carolina and may be referred to as the ‘Development Ordinance’. The map referred to herein is identified by the title ‘Official Zoning Map, Town of Carthage’, North Carolina and may be known as the ‘Zoning Map’.

**Sec. 100.4A Territorial Jurisdiction**

For the purpose of this Ordinance, the jurisdiction of the Town of Carthage shall include the land within the corporate limits of the Town and that land located between these limits and the boundaries established in the municipal ordinance establishing extraterritorial boundaries, as now or hereafter fixed.

**Sec. 100.4B Split Jurisdiction\***

If a parcel of land lies split between the planning and development regulation jurisdiction of the town and the jurisdiction of an adjoining municipality or the county, the town’s regulations shall apply to that area subject to the planning and development regulation jurisdiction of the town. If the property owner elects to use the town’s regulations on that portion of the land not subject to town regulations, the property owner and town shall certify that the town rules are not being applied under coercion and that the town will not withhold approval unless the town’s rules are applied to that portion of the project located beyond the town’s jurisdiction.

**Sec. 100.5 Incorporation of Zoning Map**

The Official Zoning Map, Town of Carthage, NC and all notations, references and other information shown on the map are hereby incorporated and made part of this Ordinance. Current and prior Zoning Maps will be maintained in paper and digital format.

**Sec. 100.6 Rules Governing Boundaries**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official 5, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the center lines of streets of highways, street or railroad right-of-way lines or such lines extended, such center lines, street or railroad right-of-way lines shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow platted lot lines, such lot lines shall be construed to be said boundaries.
3. Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, or railroads, or right-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by use of the scale shown on said Zoning Map.
4. Where any street or alley is hereafter closed, vacated or abandoned, the zoning district adjoining each side of the street or alley shall be automatically extended to the center of the street or alley, and all lands which are included in the closed portion shall thereafter be subject to the regulations of the extended districts.
5. Boundaries indicated as approximately following Town limit lines shall be construed to follow such Town limit lines.

6. Where district boundaries are indicated as following topographic contours, drainage divides or specific measured distances such features shall be construed to be such boundaries.
  7. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
  8. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- \*amended 7-18-16
9. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or if further uncertainty exists as to the location of boundaries or applicability of zoning districts, the Board of Adjustment shall interpret the intent of the Zoning Map as to the location of such boundaries, and the applicability of such districts.
  10. A Flood Insurance Rate Map (FIRM), Flood Boundary and Floodway Map (FBFM), and Flood Hazard Boundary Map (FHBM) are hereby included within the Official Zoning Map.

**Sec. 100.7 Interpretation, Purpose, Conflict**

In interpreting and applying the provisions of the Ordinance, the provision shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. This Ordinance is not intended to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenant or agreements, the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement causing the highest standard of improvement, shall govern.

**Sec. 100.7 Repeal and Reenactment of Existing Zoning Ordinance**

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Zoning Ordinance of the Town of Carthage and it is not intended to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Zoning Ordinance, which are not reenacted herein, are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Zoning Ordinance in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Ordinance, prosecutions for which have not been instituted, may be filled and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted.

**Sec. 100.8 Effects Upon Outstanding Building Permits; Conditional Zoning; Special Use Permits; Zoning Permits; and Zoning Permits with Vested Rights**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building, structure, or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under the outstanding permit within a period of one hundred eighty (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Zoning Permit which has been granted prior to the adoption of this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the issuance of such permit and provided that such Building Permit is prosecuted to completion as provided for above.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any Special Use Permits or Conditional Zoning approval, which has been granted prior to the adoption of this Ordinance and which Special or Conditional Zoning Use is no longer carried forth on this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit and provided that such Building Permit is prosecuted to completion as provided for above. Such valid Special Uses including those already existing for non-continued uses may be constructed, continued, and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of Special Use Permits or Conditional Zoning approval. Any such Special Use that is changed to any permitted use for any period of time shall not be permitted to resume the Special Use.

Effective January 1, 2021 and in accordance with NCGS Chapter 160D, all conditional use permits are automatically converted to special use permits and all conditional use district rezonings are converted to conditional zoning.

Nothing herein contained shall require any change in any zoning vested right which has been established prior to the adoption of this ordinance during its vested rights period except to the extent permitted at the time of the approval of the site-specific vesting plan and consistent with G.S. 160D-102; 108; 108.1.

### **Sec. 100.9 Repeal and Reenactment of Existing Subdivision Regulations**

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Subdivision Regulations of the Town of Carthage and it is not intended to repeal but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Subdivision Regulations which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Subdivision Regulations in effect, which are now pending in any of the courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Regulations, prosecutions for which have not been instituted, may be filed and

prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted.

**Sec. 100.10 Effect Upon Outstanding Preliminary Plats**

Nothing herein contained shall require any change in any Preliminary Plat which has received approval by the Town of Carthage prior to the time of the adoption of the Ordinance provided that such preliminary Plat has been prosecuted to completion and a Final Plat recorded in the Office of the Register of Deeds within twelve (12) months after the time of the adoption of this Ordinance. If the Final Plat of all or part of the area shown on any previously approved Preliminary Plat is not recorded in the Office of the Register of Deeds within twelve (12) months after the time of the adoption of this Ordinance, such non-recorded area shall be subject to all the provisions of this Ordinance.

After the effective date of this Ordinance, any Final Plat to be recorded based upon any outstanding Preliminary Plat shall follow the Final Plat approval procedures of the Ordinance.

In addition, nothing herein contained shall require any change in any Final Plat which has received approval by the Town of Carthage prior to the time of the adoption of this Ordinance provided that such Final Plat is prosecuted to completion in accordance with the terms of approval. In the event of default or the failure of the Subdivider to perform in accordance with the conditions as approved, the Town of Carthage may, at its option, take lawful action pursuant to the Subdivision Ordinance in existence at the time of the Final Plat approval or this Ordinance.

**Sec. 100.11 Effect Upon New Territory Added to Jurisdiction**

At any time when new territory is added to the Jurisdiction of this Ordinance, such new territory shall immediately become subject to the provisions of this Ordinance. Any proposed Subdivision or a Subdivision in progress within such new territory shall proceed only in accordance with the following:

1. Any Subdivision for which a Final Plat has been recorded in the Register of Deeds Office pursuant to the approval of another local government, but which is subject to an outstanding guarantee to such local government for the installation of Subdivision improvements, shall remain under the Subdivision control of such local government until such time as such Subdivision shall have been prosecuted to completion. Provided, however, the Town may not accept the Dedication of any Street or Street improvements unless such Street and Street improvements meet the standards of this Ordinance and the Town's Policy for Acceptance of Streets for use and maintenance by the Town.
2. All other Subdivisions shall meet all of the requirements of this Ordinance and it shall be the responsibility of the Subdivider of any proposed Subdivision or Subdivision in progress to receive approval as provided for in this Ordinance before proceeding with any development. The Subdivider shall arrange a conference with the Administrator who shall determine the level and type of approval required and provide the Subdivider with an approval track for the particular case.

### **Sec. 100.12 Public Notices**

All public notices for any actions for which General Statutes or this Ordinance require a public hearing shall be made in accordance with the provisions of North Carolina General Statutes of Chapter 160D.

### **Sec. 100.13 Fees**

Applicants for permits and other procedures as provided for by this Ordinance may be required to pay such fees as may be established by the Board of Commissioners in the Schedule of Fees and Charges.

## **Article 2. Non-Conforming Situations**

### **Sec. 100.14 Purpose**

The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provision of this Ordinance. However, this Article is also established to require that non-conforming situations be terminated under certain circumstances.

### **Sec. 100.15 Continuation of Non-Conforming Situations**

Non-conforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in this Article.

### **Sec. 100.15 Non-Conforming Lots of Record**

Where the owners of a lot of record at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the area or lot width requirements of this Ordinance, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of Permitted and Conditional Uses and the Special Requirements.

### **Sec. 100.16 Extension or Enlargement of Non-Conforming Situations**

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.
2. Subject to Paragraph (4) of this Section, a non-conforming use may be extended through 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 use. However, a non-conforming use may not be extended to additional buildings or to land outside the original building.

3. A non-conforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became non-conforming.
4. The volume, intensity or frequency of use of property where a non-conforming situation exists may be increased and the equipment or processes used at a location where a non-conforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Section occur.
5. Physical alteration of non-conforming structures or structures containing a non-conforming use is unlawful if it results in:
  - a. An increase in the total amount of space devoted to a non-conforming use;
  - b. Greater non-conformity with respect to dimension restrictions such as yard requirements, height limitation or density requirements; or,
  - c. The enclosure of previously unenclosed areas, even though those areas are or were used in connection with the non-conforming activity.
6. Minor repairs to and routine maintenance of property where non-conforming situations exist are permitted and encouraged. Major renovation i.e., work estimated to cost more than ten percent (10%) but less than sixty percent (60%) of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this Subsection particularly Paragraph (5). In no case, however, shall work costing more than sixty percent (60%) of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

Provided, nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is non-conforming as to use, provided it is done in conformance with the dimensional requirements of the RM-10 Residential District.

#### **Sec. 100.17 Reconstruction Prohibited**

Any non-conforming building or structure or any building or structure containing a non-conforming use for which major repair or reconstruction is proposed in any amount equal to sixty percent (60%) or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to sixty percent (60%) or more of its taxed value shall only be repaired and/or reconstructed and used as a conforming structure and a conforming use.

Provided, nothing herein shall prevent the reconstruction of a single-family dwelling that is non-conforming as to use provided such reconstruction conforms to the dimensional requirements of the RM-10 Residential District.

#### **Sec. 100.18 Change in Kind of Non-Conforming Use**

1. A non-conforming use may be changed to a conforming use. Thereafter, the property may not revert to a non-conforming use.
2. A non-conforming use shall not be changed to another non-conforming use except upon a finding by the Board of Adjustment that the use is more in character with the uses permitted in the District than the previous use.
3. If a non-conforming use and a conforming use, or any combination of non-conforming uses exist on one lot, the use made of the property may be changed only to conforming use.
4. Conforming uses, except Adult Oriented Businesses, may be established or re-established in non-conforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

**Sec. 100.19 Replacement on Non-Conforming Mobile Homes and Mobile Homes in Non-Conforming Mobile Home Parks**

1. A non-conforming mobile home on an individual lot outside of a mobile home park may be replaced with another manufactured home provided the following applicable conditions are met:
  - a. The replacement occurs within 365 days of the last day of occupancy of the original manufactured home.
  - b. The new manufactured home may be larger in size, but it cannot create any new non-conformities including setbacks. All porches or decks will be included in the setback calculation.
  - c. The manufactured home that is being replaced must be removed from the property before a Certificate of Occupancy can be issued by the Moore County Building Inspections office.
  - d. The location of the manufactured home may be changed so long as it reduces the non-conformity with regard to setbacks. (Moving the manufactured home farther back onto the property to bring the front setback into compliance for that zoning district).
  - e. If the home is to be served by a septic system, the septic approval is to be obtained before the zoning permit is issued.
2. Mobile homes in a mobile home park may be replaced with another mobile home.
3. Mobile homes must be installed according to the regulations set forth in Section 100.56A SR 6. (Class A or B Mobile Home on Individual Lot) and SR 7. (Mobile Home Parks).

**Sec. 100.20 Discontinuance of Non-Conforming Uses**

1. When active operation or occupancy of a non-conforming use is discontinued regardless of the purpose or reason for a consecutive period of one hundred and eighty (180) days or removed for any period of time, the property involved may thereafter be used only for conforming uses.



2. For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this Subsection, 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 apartment in a non-conforming apartment building for one hundred and eighty (180) days shall not result in a loss of the right to rent that apartment thereafter so long as the apartment building as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the non-conforming use for the one hundred eighty (180) day period or removal for any period of time, shall terminate the right to maintain it thereafter.
  
3. Notwithstanding any other provision of this Article the following non-conforming situations shall be brought into conformance with the provisions of this Ordinance, if permitted, or discontinued and removed entirely, including the entire use and any associated components or equipment, within the following time schedules:

**Non-Conforming Situation Compliance or Discontinuance Schedule**

<u>Use</u>	<u>Deadline for Compliance/Discontinuance</u>
Junk/Salvage Yards	36 months
Home Occupations in Residential Districts	12 months
Outdoor Storage Yards	36 months
Outdoor Display and Sales of Goods in Connection with an Antique Store	3 months*

\*The three-month amortization period shall begin from the effective date of this ordinance. After the amortization period has ended, all existing and new antique stores utilizing outdoor storage shall comply with the current requirements of the Carthage Development Ordinance.

**Sec. 100.21 Discontinuance of Non-Conforming Adult Oriented Businesses**

Notwithstanding the provisions of Sec. 100.20 above, Adult Oriented Businesses shall be governed by the following:

1. Any Adult Oriented Business that fails to comply with the use and location requirements of this Ordinance but which was lawfully operating before the effective date of this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
  
2. Any Adult Oriented Business lawfully operating as of the effective date of this Ordinance but which subsequently fails to comply with the use and location requirements of this Ordinance as

the result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business which ceases active operation for a period of thirty (30) days regardless of purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.

3. Any Adult Oriented Business that is rendered a non-conforming use as a result of the conditions described in (1) and (2) above shall either cease to operate or meet all of the requirements of this Ordinance for the use no later than sixty (60) months from the date that the Adult Oriented Business becomes a non-conforming use.

## **Sec. 100.22 Non-Conforming Signs**

The following requirements are established to regulate non-conforming signs:

### 1. Conformance Required

Any sign legally in use prior to the effective date of this ordinance or any amendments hereto which does not satisfy the requirements of this ordinance is declared to be non-conforming and may be continued subject to regulations of this Section.

The eventual elimination, as expeditiously and fairly as possible, of non-conforming signs is as much a subject of health, safety and welfare as is the regulation of signs.

### 2. Regulations of Non-Conforming Signs

A non-conforming sign may be continued but it shall not be:

- a. Changed or replaced with another non-conforming sign, except that copy may be changed.
- b. Expanded or modified in any way which increases the sign's non-conformity. Nor may illumination be added.
- c. Moved except to bring the sign into complete conformity with this Article.
- d. Re-established once the sign structure has been removed.
- e. Re-established after damage or deterioration as defined in Sec. 4.
- f. Re-established after it has been discontinued regardless of reason or intent for one hundred twenty (120) days or more.

### 3. Illumination of Signs for Legal Non-Conforming Uses

Signs for legal non-conforming uses in residential districts shall be illuminated only between sunrise and 10:00 p.m.

4. Damaged or Deteriorated Non-Conforming Signs

If a non-conforming sign suffers more than fifty percent (50%) of its value by damage or deterioration it must be brought into conformance with this ordinance if permitted or removed. The value shall be determined by the Administrator or his designee as the depreciated replacement value of the sign.

5. Maintenance of Non-Conforming Signs

Non-conforming signs shall be subject to all requirements of this ordinance regarding safety, maintenance and repair. Non-conforming signs shall be maintained in good condition including necessary non-structural repairs, incidental alterations or copy alterations, such as repainting and electrical repairs which do not extend or intensify the non-conforming features of the sign.

6. Discontinuance of Certain Non-Conforming Signs

The following non-conforming signs shall be brought into conformance with the provisions of this ordinance, if permitted, or discontinued and removed entirely, including the entire sign and any associated components or equipment within the following time schedule:

**Non-Conforming Sign Compliance or Discontinuance Schedule**

<b><u>Sign Type</u></b>	<b><u>Deadline for Compliance/Discontinuance</u></b>
Signs expressly prohibited except for roof and projecting signs	6 months
Movable signs	6 months
Portable signs	1 year
Temporary signs	30 days
Off Premises signs	60 months

**Sec. 100.23 Non-conforming Parking**

When a building or use deficient in off-street parking spaces as defined by these regulations is increased in floor area, number of dwelling units, seating capacity, number of participants or employees, addition of

secondary principal or accessory use, or any other unit of measurement used to calculate required parking, one (1) of the following shall apply:

1. Where such increase is fifty percent (50%) or less of the original measurement, additional parking spaces shall be provided to meet the requirements of the parking section as if the increase were a new and separate use.
2. Where such increase is more than fifty percent (50%) of the original measurement, additional parking spaces shall be provided to make all combined existing and proposed uses conform to the requirements of the parking section.

### **Article 3. Decision Making and Administrative Bodies**

#### **Sec. 100.24 Board of Commissioners**

Without limiting any authority granted to the Board of Commissioners by General Statutes or by other Ordinances of the Town, the Board of Commissioners shall have the following powers and duties with respect to this Ordinance:

1. To adopt, amend or repeal this Ordinance;
2. To adopt amendments to the Official Zoning Map;
3. To adopt design guidelines for the Historic Preservation Overlay Districts;
4. To approve or deny requests for approval of major preliminary and final subdivision plats, Special Use Permits, Conditional Zoning, Vested Rights, and major site plans;
5. To perform the powers and duties of a Board of Adjustment; and,
6. Such additional powers and duties as may be set forth in this Ordinance.

#### **Sec. 100.25 Board of Adjustment**

The Board of Commissioners is hereby designated as the Board of Adjustment for the purposes of this Ordinance. In all cases where this Ordinance requires an action by the Board of Adjustment, the Board of Commissioners acting as a Board of Adjustment shall perform such duty.

#### **Sec. 100.26 Proceedings of the Board of Adjustment**

The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and by Chapter 160D of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the Chairman, who shall be the Mayor, and at such other times as the Board may determine. The Chairman, or in the Chairman's absence, the Vice Chairman, who shall be the Mayor Pro-Tem, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public.

The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of this Ordinance or to

decide in favor of the applicant any matter upon which it is required to pass under the Zoning provisions or to affect any variation of such provisions.

**Sec. 100.27 Appeals, Hearings and Notice**

An appeal from the decision of the Administrator may be taken by the aggrieved party to the Board of Adjustment. Such appeal shall be taken within thirty (30) days by filing with the Administrator a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for hearing the appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. No matter to be heard by the Board of Adjustment shall be placed on the Board’s agenda unless a completed application has been filed with the Administrator at least fourteen (14) days prior to the meeting date. At the hearing, any party may appear in person or by agent or attorney. On all appeals, applications and other matters brought before the Board of Adjustment, said board shall inform in writing all the parties involved of its decision and the reasons therefore.

**Sec. 100.28 Stay of Proceedings**

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board of Adjustment after the notice of appeal shall have been filed with the Administrator, that by reason of facts stated in the certificate a stay would, in the Administrator’s opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrator, on due cause shown.

**Sec. 100.29 Powers and Duties of the Board of Adjustment**

The Board of Adjustment shall have the following powers and duties:

1. Administrative Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrator in the enforcement of the zoning provisions of this Ordinance.
2. Variances. Variances. - When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
  - a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and

appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

- c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 17, 50(b), 51(a), (b), (d).)

3. Variations from Watershed Overlay District Requirements. The Board of Adjustment may authorize variances from the specific requirements of the Watershed Overlay Districts in the same manner and subject to the same procedures and requirements of this Ordinance for authorizing other variance, provided that:
  - a. A notice is mailed by first class mail to all other local governments having watershed regulation jurisdiction within the particular watershed where the variance is requested and to each entity using that water supply for consumption.
  - b. If the variance request is for a major variance as defined herein the following procedure shall apply. If the Board of Adjustment decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the North Carolina Environmental Commission for review and action. If the Board does not decide in favor of granting the major variances, such unfavorable action shall constitute denial.
  - c. In the event of a favorable action by the Board on a major variance, the Board shall cause the record of their hearing to be promptly submitted to the North Carolina Environmental Commission. The record of the hearing shall include but not be limited to:
    1. The variance application;
    2. The hearing notices;
    3. The evidence presented;
    4. Motions, offers of proof, objections to evidence and rulings on them;
    5. Findings and exception; and
    6. The action of the Board including any conditions proposed.
  - d. If the North Carolina Environmental Commission approves the major variances or approves with conditions or stipulations added, the North Carolina Environmental Commission shall prepare a decision which authorizes the Board of Adjustment to issue a final decision which

would include any conditions or stipulations added by the North Carolina Environmental Commission. If the North Carolina Environmental Commission denies the major variance, then the North Carolina Environmental Commission shall prepare and transmit it to the Board of Adjustment. The Board shall then prepare a final decision denying the major variance.

4. Interpretation of the Watershed Boundaries. The Board of Adjustment shall have the power to make adjustments to the exterior boundary of Watershed Overlay Districts by removing all or part of a piece of property from a Watershed Overlay District where it finds that all or part of such property actually lies outside the drainage area of such property that is shown on the Official Zoning Map as being in a Watershed Overlay District actually drains to that Watershed, the Board of Adjustment shall, upon appeal by the owner, make a determination as to the facts of the matter as it affects the subject property.

In determining whether a property or part of a property drains to the Watershed as indicated on the map, the Board of Adjustment shall base its determination on actual field conditions of the property as determined by topographical conditions. In making its determination, the Board of Adjustment may require the appellant to produce relevant expert testimony and exhibits.

After hearing such appeal, the Board shall find that the subject property (all or part) is either in the designated Watershed or out of the designated Watershed. If the Board shall find that the subject property is out of the designated Watershed, the Board shall order the map to be adjusted to show the subject property to be outside the designated Watershed. In making such order, the Board of Adjustment shall designate the Watershed in which the subject property is located. If such designation causes the subject property to be located in another Watershed Overlay District, the order shall cause the map to be located in another Watershed Overlay District; the order shall cause the map to be adjusted to show the same.

5. Variance from Flood Damage Prevention Standards. The Board may authorize variances from the specific requirements of the Flood Damage Prevention standards in the same manner and subject to the same procedures and requirements of this ordinance for authorizing other variances.
  - a. In passing upon such variances, the Board shall consider all technical evaluations and relevant factors, and:
    - The danger that materials may be swept onto other lands to the injury of others;
    - The danger to life and property due to flooding or erosion damage;
    - The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - The importance of the services provided by the proposed facility to the community;
    - The necessity to the facility of a waterfront location, where applicable;
    - The availability of alternative location, not subject to flooding or erosion development;

- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and effects of wave action if applicable, expected at the site; and
  - The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- b. The findings listed above shall be submitted to the Board of Adjustment in writing, and included in the application for a variance.
- c. Upon consideration of the factors listed above, and the purpose of this Section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
- d. Variances shall not be issued within any designated floodway if there is any increase in flood levels during the base flood discharge.
- e. Conditions for variances are as follows:
- Variances may not be issued when the variance will render the structure in violation of other federal, state, or local laws, regulations or ordinances.
  - Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - Variances shall only be issued upon:
    - ❖ A showing of good and sufficient cause;
    - ❖ A determination that failure to grant the variance would result in exceptional hardship; and
    - ❖ A determination that the granting of a variance will not result in increased [flood heights, additional threats to public safety, extraordinary public expense, create] nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation. Such notification shall be maintained with a record of all variance actions.



- g. The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
6. Act on Appeals in the Historic Landmarks and Preservation Overlay District. The Board shall have the following specific powers and duties in the Historic Preservation Overlay District:
- a. Restoration or Reconstruction. Where it is found by the Historic Preservation Commission that an application for a development permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of a structure of historic and/or architectural significance to the Historic District, such activity may be approved by the Board of Adjustment following approval by the Historic Preservation Commission, even though it does not meet dimensional regulations.

The Board of Adjustment, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

In addition to any other condition the Board of Adjustment may make regarding such authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the Town of Carthage blameless against any and all liability, cost, damage, or expense suffered by the Town of Carthage as a result of or growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved may be lawfully restored, reconstructed or maintained. Any such items projecting onto the vehicular travel way of a street or alley shall be, at its lowest point, 12 feet above the travel way.

- b. Parking Waiver. Where the Historic Preservation Commission, in considering an application for a Certificate of Appropriateness, shall make a written finding that the number of off-street parking spaces required by this ordinance for the building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the landmark or district it shall recommend to the Board of Adjustment a waiver, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize a lesser number of off-street parking spaces provided (a) the Board finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking, and (b) will not constitute a threat to the public safety.
- c. Appeal from Granting or Denial of Certificate of Appropriateness. An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying an application for a Certificate of Appropriateness. Such appeal may be taken by any aggrieved party, shall be taken within times prescribed by the Historic Preservation Commission by general rule, and shall be in the nature of certiorari.

7. The Board may permit change in use from one non-conforming use to another as provided for in this Ordinance.

### **Sec. 100.30 Appeals from the Board of Adjustment**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, any taxpayer, or any officer, department, board or bureau of the jurisdiction of this Ordinance may, within thirty (30) days after the filing of the decision in the office of the Town Clerk, but not thereafter, present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality, were upon such decision of said Board shall be subject to review by certiorari as provided by law.

### **Sec. 100.31 Planning Board**

A Planning Board is hereby established. Said Board shall consist of seven (7) members. Five (5) members shall be residents of the Town and shall be appointed by the Town Board of Commissioners and two (2) members, who shall be residents of the Area of Extraterritorial Jurisdiction, shall be appointed by the Moore County Board of Commissioners upon recommendation by the Town Board of Commissioners. All members shall serve terms of three (3) years, except for the initial appointments where three (3) members shall be appointed for one (1) year terms, three (3) members shall be appointed for two (2) year terms and two (2) members shall be appointed for three (3) year terms. Vacancies shall be filled for the unexpired portions of the terms in the same manner as the initial appointment. The term for each appointed member shall begin on the effective date of the adoption of this ordinance. Members may be appointed for any number of successive terms. All members shall vote on all matters except as otherwise provided for in this Article.

The Board shall meet within thirty (30) days after appointment and elect a Chairman and Vice Chairman and create and fill such offices as it may deem necessary. The term of the offices of Chairman and Vice Chairman shall be one (1) year, with eligibility for re-election. The Board may adopt rules of procedure not in conflict with this and any other town ordinances or policies. The Board shall keep a record of its member's attendance and of its actions, which record shall be a public record. Such records shall be submitted to the Town Manager and shall be on file at the Town office for public inspection.

Regular attendance and interest shall be considered prerequisites of membership on the Planning Board. Failure to attend three (3) consecutive meetings or four (4) meetings in any twelve (12) month period shall be considered as a resignation from the Board unless the Board determines by majority vote that good and sufficient reason has been given for the member's absence.

The Planning Board is created to carry out the powers and duties of the Planning Agency as provided for in N.C.G.S 160D-301 and to carry out the powers and duties of the Planning Board as provided for in this Ordinance, and any other Ordinances or policies of the Town. In carrying out its function as a Planning Board, the Board shall be bound by its rules of procedure and by Sec. 100.32 of the Article.

### **Sec. 100.32 Planning Board – Powers and Duties**

In addition to its specific duties set forth in this and other Town Ordinances and policies, the Planning Board shall have the following powers and duties:

1. To make studies of the Town and surrounding areas;
2. To determine objectives to be sought in the development of the Town;
3. To propose and recommend plans for achieving these objectives;
4. To develop and recommend to the Board of Commissions policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
5. To advise the Board of Commissioners concerning the use and amendment of means for carrying out plans;
6. To exercise such functions in the administration and enforcement of various means for carrying out plans as may be assigned by this article or other ordinances of the Town; and
7. To perform other related duties as may be assigned by this article or other ordinances.

**Sec. 100.33 - 100.34 Reserved**

**Sec. 100.35 Historic Preservation Commission**

**1. Purpose**

Whereas the historical heritage of the Town of Carthage is a valued and important part of the general welfare; and whereas the conservation and preservation of that heritage, through the documentation and regulation of historic districts or landmarks, or through the acquisition of historic properties, stabilizes and increases property values, and pursuant to North Carolina General Statute (N.C.G.S 160D-940 to 949) this section is enacted in order to:

- a. Safeguard the heritage of the Town of Carthage by preserving districts and landmarks therein that embody important elements of its culture, history, architectural history, or prehistory; and
- b. Promote the use and conservation of such districts and landmarks for the education, pleasure, and enrichment of the residents of the Town of Carthage and of the State as a whole.

**2. Creation and Appointment**

There is hereby created, pursuant to N.C.G.S 160D-303; 941, a historic preservation commission, hereinafter referred to as the "Commission." The Commission shall consist of no less than five (5) members and not more than seven (7) who shall be appointed by the Town of Carthage Board of Commissioners. Voting members shall be selected from the Carthage Historic Committee subject to their willingness to serve or from knowledgeable members of the town, as appropriate, with one representative from the extraterritorial jurisdiction. One alternate may also be appointed. The Board of Commissioners may also appoint individuals to be advisory to the Historic Preservation Commission that own historic properties throughout the town or extraterritorial jurisdiction but do not reside in the Town of Carthage.

For a five-member board, initially appointed terms shall be staggered so that one member serves a one-year term, two members serve a two-year term, and two members serve a three-year term. For a seven-member board, initially appointed terms shall be staggered so that two members serve a one-year term, two members serve a two-year term, two members serve a three-year term, and one member serves a four-year term. Thereafter, the Board of Commissioners shall appoint members to terms of four (4) years, with not more than two (2) terms expiring annually.

Commissioners shall serve until their successors are appointed. A commissioner may serve two (2) consecutive terms, after which he or she shall be ineligible for reappointment for four (4) calendar years, elapsed from the date of termination of the second term. The alternate shall be appointed to a four (4) year term. The alternate may serve two (2) consecutive terms after which he or she shall be ineligible for reappointment for four (4) calendar years as an alternate. The alternate may serve an additional four years if subsequently appointed as a commissioner. All commissioners shall reside within the territorial or extraterritorial jurisdiction of the Town of Carthage.

### **3. Qualification of Members**

Members of the commission shall have demonstrated education, experience, special interest, or a combination thereof, in historic preservation, history, architecture, architectural history, archaeology, cultural anthropology, planning, or related field.

### **4. Rules of Procedure**

**a.** The Commission shall adopt rules of procedure necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. The rules of procedure shall provide for at least the following:

- (1) Selection of Commission officers,
- (2) Time and place of regular meetings, and calling of special meetings,
- (3) Procedures for conduct of public hearings,
- (4) Keeping of minutes of proceedings and Commission records,
- (5) Conduct of voting,
- (6) Conflicts of interest policy,
- (7) Attendance policy,
- (8) Forms to be used in applying for Certificates of Appropriateness,
- (9) Sufficient project information to make sound, quasi-judicial determinations regarding applications for Certificates of Appropriateness, and
- (10) List of minor works for which Commission staff may issue Certificates of Appropriateness.
- (11) Process for review and issuance of Certificates of Appropriateness by the Historic Preservation Commission.

**b.** The Commission shall meet at least quarterly. All meetings shall be conducted in accordance with the North Carolina Open Meetings Law, G.S. Chapter 143, Article 33C (NCGS 143-318.9 to 318.18).

**c.** The Commission shall annually present to the local legislative body a report of its activities, budget, findings, recommendations, and actions, which shall be made available to the public.

### **5. Powers and Duties**

The Commission is hereby empowered to undertake such actions as may be reasonably necessary to the discharge and conduct of its duties and responsibilities as set forth in this ordinance and in the North Carolina General Statutes, including, but not limited to:

**a.** Organizing itself and conducting its business;

- b.** Receiving and spending funds appropriated by the Town of Carthage for operating and performing its duties;
- c.** Conducting an inventory of properties of historical, archaeological, architectural, and/or cultural interest;
- d.** Recommending to the Town of Carthage that individual buildings, structures, sites, areas, or objects within its zoning jurisdiction be designated as “historic landmarks” and that areas within its zoning jurisdiction be designated as “historic districts;”
- e.** Recommending to the Town of Carthage that designation of any area as a historic district, or part thereof, or of any building, structure, site, area, or object as a historic landmark, be revoked or removed for cause;
- f.** Reviewing and acting on proposals for
  - (1) Exterior alteration, relocation, or demolition of designated historic landmarks;
  - (2) Exterior alteration, relocation, demolition, or new construction of properties within designated historic districts;
- g.** Negotiating with property owners who propose to demolish or relocate a designated landmark, or a building, structure, site, area, or object within a designated district, in an effort to find a means of preserving such properties, including consulting with private civic groups, interested private citizens, and other public boards or agencies;
- h.** Instituting action, through town Planning and Code Enforcement, to prevent, restrain, correct, or otherwise abate violations of this ordinance or of ordinances designating historic landmarks or districts;
- i.** Entering, at reasonable times and with the consent of the owner or occupant, upon private lands to make examinations, conduct surveys and inventories, or other purposes in performance of its official duties. However, no member, employee, or agent of the Commission shall enter any private building or structure without the express consent of the owner or occupant thereof;
- j.** Reviewing and acting on proposals for alterations of interior features of designated historic landmarks, as specified, and for which owner consent was given, in the ordinance establishing designation;
- k.** Appointing advisory bodies or committees as appropriate;
- l.** Negotiating with property owners for the acquisition or protection of significant historic properties;
- m.** Acquiring by any lawful means, the purchase fee, or any lesser included interest, including options to purchase, properties designated as landmarks, properties located within designated districts, or land to which historic buildings or structures may be moved; holding, managing, preserving, and restoring such a property and improving the interest; and exchanging or disposing of the interest through public or private sale, lease, or other lawful means, provided the property shall be subject to covenants or other legally binding restrictions which shall secure appropriate rights of public access and the preservation of the property. All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by the local governing body shall be acquired in the name of the Town of Carthage unless otherwise provided by that body;
- n.** Accepting grants of funds from private individuals or organizations for preservation purposes;
- o.** Conducting educational programs pertaining to historic landmarks or historic districts within its jurisdiction;
- p.** Publishing or otherwise informing the public about any matter related to its purview, duties, responsibilities, organization, procedures, functions, or requirements;
- q.** Advising property owners about appropriate treatment(s) for characteristics of historic properties;
- r.** Cooperating with the State of North Carolina, federal governmental agencies, local governments, public or private organizations, or their agencies, in pursuing the purposes of this ordinance, including entering into contracts, provided that such contracts are not inconsistent with state or federal law;

- s. Preparing and recommending adoption of a preservation element, or elements, as part of a Town of Carthage comprehensive plan;
- t. Proposing to Board of Commissioners amendments to this or to any other ordinance, and proposing new ordinances or laws relating to historic landmarks and districts or to the protection of the historic resources of the Town of Carthage and its environs.

## **6. Inventory**

The Commission shall use as a guide to identification, assessment, and designation of historic landmarks and districts an inventory of buildings, structures, sites, areas, or objects which are of historic, prehistoric, architectural, archaeological, and/or cultural significance. The Commission shall take steps as necessary to ensure that the inventory reflects information current to within twenty (20) years of the effective date of this ordinance.

## **7. Historic Landmarks**

### **7.1 Adoption of Ordinance of Designation**

a. The Board of Commissioners may adopt and, from time to time, amend or repeal an ordinance designating one or more historic landmarks. The ordinance shall include information which shall:

- (1) List the name or names of the owner or owners of the property;
- (2) Describe each property designated by the ordinance, including the address, if applicable, the physical configuration and orientation of the property so designated;
- (3) Describe those elements of the property which are integral to its historic, architectural, archaeological, and/or cultural significance;
- (4) Any other information deemed necessary, within the authority of this ordinance and the general statutes, as determined by the Board of Commissioners.

b. The landmark designation process may be initiated by either the Commission or at the request of a property owner. No ordinance to designate any building, structure, site, area, or object shall be adopted or amended until all of the requirements of this ordinance and its subsections have been satisfied.

### **7.2 Criteria for Designation**

To be designated as a historic landmark, a property, building, site, area, or object shall be found by the Commission to possess special significance in terms of its history, prehistory, architecture, archaeology, and/or cultural importance, and to retain the integrity of its design, setting, workmanship, materials, feeling, and/or association.

### **7.3 Procedure for Designation**

a. The Commission shall make, or cause to be made, an investigation and designation report which includes:

- (1) The name of the property to be designated, including both common and historic names if they can be determined;
- (2) The name(s) and address(es) of the current owner(s);

- (3) The location of the property for which designation is proposed, including the street address and the County of Moore tax map parcel number or parcel identification;
- (4) The dates of original construction and of all later additions or alterations, if applicable;
- (5) An assessment of the significance of the building or site as prescribed by this ordinance;
- (6) An architectural or archaeological description of the area of the site or structure, including descriptions of all outbuildings and appurtenant features, for which designation is proposed;
- (7) A historical discussion of the site or structure within its type, period, and locality;
- (8) Photographs showing, to the fullest extent possible, the overall current condition of the property; one photograph of each façade or elevation and supplementary photographs as necessary to illustrate architectural details or ornamentation, siting, scale, proportion, and relationship of features or buildings, structures, or objects to each other; and.
- (9) A map showing the location of the property, including all outbuildings and appurtenant features.

**b.** Pursuant to N.C.G.S 160D-946, as amended, the designation report shall be submitted to the North Carolina Department of Natural and Cultural Resources, Division of Archives and History, or its successor agency, which, acting through the State Historic Preservation Officer, shall review it and provide written comments and recommendations to the Board of Commissioners regarding the substance and effect of the proposed designation. Failure of the Department to respond within thirty (30) days following its receipt of the report shall constitute approval of the report by the Department and relieve the Board of Commissioners of all responsibility to consider the Department's comments or recommendations concerning the report.

**c.** At the expiration of the thirty (30) day review period, the Commission shall consider the report and any comments or recommendations from the State Historic Preservation Officer, and shall accept it, amend it, reject it, or defer a decision until completion of a period of further study, not to exceed sixty (60) days. The Commission shall forward to the Board of Commissioners a copy of the report, copies of written comments received from the Department of Cultural Resources, and a recommendation either to approve or disapprove designation of the property, stating in its recommendation the extent to which the property meets the criteria for designation as set forth in this ordinance. A recommendation for approval shall be accompanied by a proposed ordinance of designation. A recommendation for disapproval shall not necessarily prevent any future consideration of a property for designation as a historic landmark.

**d.** The Board of Commissioners shall hold a public hearing, either jointly with the Commission, or separately, to consider the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

**e.** Following the public hearing, the Board of Commissioners shall consider the Commission's designation report, its recommendation(s), the Department of Natural and Cultural Resources' recommendation(s), and comments made at the public hearing, and shall adopt the ordinance as proposed, adopt the ordinance with amendments, or reject the ordinance.

**f.** Upon adoption of the ordinance, the Commission staff:

(1) Shall, within thirty (30) days of adoption, send the owner(s) of the landmark(s) written notice of such designation, explaining the substance of the Commission's decision, via certified mail with a return receipt requested;

(2) Shall file one copy of the ordinance, and any subsequent amendments thereto, in the office of the Register of Deeds of the County of Moore, which office shall index each historic landmark according to the name of the owner in the grantee and grantor indexes.

(3) Shall, if the landmark lies within the zoning jurisdiction of the Town of Carthage, file a second copy of the ordinance, and any subsequent amendments thereto, in the office of the Town Clerk, where it shall be made available for public inspection at any reasonable time, and shall provide a third copy to the building inspector.

(4) Shall notify the tax assessor of the County of Moore of the landmark designation.

(5) Shall notify the State Historic Preservation Office.

**g.** Upon notification from the Commission, the tax assessor of the County of Moore shall clearly indicate the designation on all appropriate tax maps for as long as the designation remains in effect.

**h.** In disapproving a designation report, a copy of the minutes of the meeting at which such decision to deny was made shall be mailed to the owner of the property proposed for designation, together with a letter explaining the substance of the Commission's decision.

## **8. HISTORIC DISTRICTS**

### **8.1 Adoption of Ordinance of Designation**

The Board of Commissioners may adopt and, from time to time, amend or repeal an ordinance designating a historic district. The ordinance shall include information which shall describe the physical area proposed for designation, its boundaries, and general historic, architectural, archaeological, and/or cultural significance. The district designation process may be initiated by either the Commission or at the request of any number of property owners. No ordinance to designate a district shall be adopted or amended until all of the requirements of this ordinance and its subsections have been satisfied.

### **8.2 Criteria for Designation**

To be designated as a historic district, an area shall be found by the Commission to possess special significance in terms of its history, prehistory, architecture, archaeology, and/or cultural importance, and to retain the integrity of its design, setting, workmanship, materials, feeling, and/or association.

### **8.3 Procedure for Designation**

**a.** The Commission shall make, or cause to be made, an investigation and designation report which includes:

(1) An assessment of the significance of the buildings, sites, structures, features, objects, or environs to be included in a proposed district and a description of its boundaries; and

(2) A map clearly indicating the boundaries of the district and the properties, showing their County of Moore tax map parcel numbers, contained therein.

(3) Photos of properties within the Historic District, including streetscapes.



**b.** A district designation report shall be:

(1) Referred to the local planning agency for review and comment according to procedures set forth in the zoning ordinance of the Town of Carthage.

(2) Submitted to the North Carolina Department of Natural and Cultural Resources, Division of Archives and History, or its successor agency, which, acting through the State Historic Preservation Officer, shall review it and provide written comments and recommendations to the Board of Commissioners regarding the substance and effect of the proposed designation. Failure of the Department to respond within thirty (30) days following its receipt of the report shall constitute approval of the report by the Department and relieve the Board of Commissioners of all responsibility to consider the Department's comments or recommendations concerning the report.

**c.** At the expiration of the thirty (30) day review period, the Commission shall consider the report and any comments or recommendations from the State Historic Preservation Officer, and shall accept it, amend it, reject it, or defer a decision until completion of a period of further study, not to exceed sixty (60) days. The Commission shall forward to the Board of Commissioners a copy of the report, copies of written comments received from the Department of Natural and Cultural Resources, and a recommendation either to approve or disapprove designation of the district, stating in its recommendation the extent to which the proposed area meets the criteria for designation as set forth in this ordinance. A recommendation for approval shall be accompanied by a proposed ordinance of designation. A recommendation for disapproval shall not necessarily prevent any future consideration of an area for designation as a historic district.

**d.** Upon receipt of a recommendation and designation report from the Commission, the Board of Commissioners shall proceed in the same manner as would otherwise be required for the adoption or amendment of any other appropriate zoning provision.

#### **8.4 Revisions to Districts**

Changes in the boundaries of an adopted district subsequent to its initial establishment shall be effected as allowed by Sections 6.1 and 6.2 of this ordinance and as prescribed in Section 6.3.

### **9. CERTIFICATES OF APPROPRIATENESS**

#### **9.1 Certificate of Appropriateness Required**

**a.** From and after the designation of a historic landmark or district, no construction, alteration, reparation, rehabilitation, relocation, or demolition of any building, structure, site, area, or object shall be performed upon such landmark or within such district until a Certificate of Appropriateness (or "Certificate") has been granted by the Historic Preservation Commission. A Certificate shall be required for any and all exterior work, including masonry walls, fences, light fixtures, steps and pavement, any other appurtenant features, any above ground utility structures, and any type of outdoor advertising sign.

**b.** A Certificate shall be required in order to obtain a building permit, or any other permit granted for the purposes of constructing, altering, moving, or demolishing structures, and shall be required whether or not a building permit or other permit is required. Any building permit or other permit not issued in conformity with this Section shall be invalid.

**c.** For the purposes of this ordinance, "exterior features" shall include architectural style, general design, general arrangement, kind and texture of material, size and scale, and type and style of all windows,

doors, light fixtures, signs, any other appurtenant features, historic signs, historic advertising, color, landscape, and archaeological or natural features.

**d.** A Certificate shall be required for specific interior features of architectural, artistic, or historic significance in publicly owned landmarks and in privately owned landmarks for which consent to review has been given in writing by the owner. Such consent shall be filed in the County of Moore Register of Deeds and indexed according to the name of the property owner in the grantee and grantor indexes and shall bind future owners and/or successors in title. The ordinance establishing historic designation of the property shall specify the interior features subject to review and the specific nature of the Commission’s jurisdiction over those features.

**e.** All applications for Certificates of Appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application is filed and deemed complete.

**f.** In approving a Certificate, the Commission may attach reasonable conditions necessary to the proper execution of this ordinance.

**g.** Commission staff may issue a Certificate for minor works as defined in the Commission’s Rules of Procedure. Minor works shall include the ordinary maintenance or repair of any exterior feature of a historic landmark or property located within a historic district, provided such maintenance or repair does not involve a change in design, material, or appearance thereof.

**h.** No application for a minor works Certificate shall be denied without deliberation by the Commission.

**i.** Under this section, the Commission shall institute action, through Planning and Code Enforcement, to prevent, restrain, correct, or otherwise abate the construction, reconstruction, alteration, restoration, relocation, or demolition of buildings, structures, appurtenant features, or any other features which would be incongruous with the special character of the landmark or district.

## **9.2 Review Guidelines**

Prior to the designation of any historic landmark or district, the Commission shall prepare and adopt guidelines not inconsistent with N.C.G.S. 160D-940-949 for constructing, altering, restoring, rehabilitating, relocating, removing, or demolishing of property designated as historic. The commission shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or other significant features in the district which would be incongruous with the special character of the landmark or district.

## **10. CERTAIN CHANGES NOT PROHIBITED**

Nothing in this ordinance shall be construed to prevent:

**a.** The ordinary maintenance or repair of any exterior feature of a historic landmark or property located within a historic district, provided such maintenance or repair does not involve a change in design, material, or appearance thereof;

**b.** The construction, alteration, relocation, or demolition of any such feature, building, or structure when the county building inspector certifies to the Commission that such action is necessary to the public health or safety because of an unsafe or dangerous condition;

**c.** A property owner from making of his property any use not otherwise prohibited by statute, ordinance, or regulation; or

d. The maintenance of, or, in the event of an emergency, the immediate restoration of any existing above ground utility structure without approval by the Commission.

## **11. DELAY OF DEMOLITION**

a. Except as provided below, a Certificate authorizing the demolition of a designated historic landmark or property located within a designated historic district may not be denied. However, the Commission may delay the effective date of such a Certificate for a period of up to 365 calendar days from the date of approval. The Commission may reduce the period of delay where it finds that the owner would suffer extreme hardship or be deprived permanently of all beneficial use of such property as a result of the delay. During the delay period, the Commission shall negotiate with the property owner and with any other party in an effort to find a means of preserving the property as provided in Section 3.4.

b. The Commission may deny an application for a Certificate authorizing the demolition or destruction of any designated landmark, or of any property, building, site, object, area, or structure located within a designated district, which the State Historic Preservation Office has determined to be of Statewide Significance, as defined by the criteria of the National Register of Historic Places, unless the Commission finds that the owner would suffer extreme hardship or be deprived permanently of all beneficial use of the property as a result of the denial.

c. In the event that the Commission has voted to recommend designation of a property as a landmark, or of an area as a district, and such designation has not yet been made by the Board of Commissioners, the demolition of any building, site, object, area, or structure located on the property of the proposed landmark or within the proposed district may be delayed by the Commission for a period of up to 180 calendar days or until the Board of Commissioners takes final action on the proposed designation, whichever occurs first. Should the Board of Commissioners approve the designation prior to the expiration of the 180 day delay period, an application for a Certificate of Appropriateness authorizing demolition must then be filed; however, the maximum delay period of 365 days shall be reduced by the number of days elapsed during the 180 day delay while designation was pending.

## **12. DEMOLITION THROUGH NEGLECT**

Failure of an owner to regularly, consistently, and fully maintain a designated landmark or any property located within a designated district shall constitute demolition, through neglect, without a valid Certificate of Appropriateness and a violation of this ordinance. The Commission shall institute action, through Planning and Code Enforcement, to prevent, restrain, correct, or otherwise abate such demolition, provided such action includes appropriate safeguards to protect property owners from undue economic hardship.

## **13. APPLICATIONS AND REQUIRED PROCEDURES**

a. An application for a Certificate shall be obtained from Commission staff. Applications shall be completed in form and in content and filed with the staff at least ten (10) business days prior to the next regularly scheduled Commission meeting. Late applications shall be deferred until the following regularly scheduled meeting.

b. The Commission shall have, as detailed in its Rules of Procedure, broad powers to require the submittal, with the application, of pertinent information sufficient to determine an application.

c. Incomplete applications shall not be accepted.

- d.** Before considering an application for a Certificate, the Commission shall notify by mail the owners of any adjacent property. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Such notices are for the convenience of property owners and occupants and no defect or omission therein shall impair the validity of issuing a Certificate or of any subsequent action.
- e.** When considering an application for a Certificate, the Commission shall give the applicant and owners of any property likely to be materially affected by the application an opportunity to be heard.
- f.** When considering the application, the Commission shall apply the review guidelines required by Section 7.2 and shall, in approving, approving with conditions, disapproving, or deferring an application, make findings of fact, indicating the extent to which the application is or is not in compliance with review criteria, and shall cause these findings of facts to be entered into the minutes of its meetings. The minutes shall also contain a summary of any citation to evidence, testimony, studies, or other authority upon which the Commission based its decision.
- g.** The Commission shall have ninety (90) calendar days following submittal of a complete application within which to act. Failure by the Commission to take final action within such period shall constitute approval of the application as submitted. This period may be extended by mutual agreement between the Commission and the applicant.
- h.** A Certificate shall be valid for 180 calendar days from date of issuance, or, in the case of a Certificate for demolition, from the effective date. If the authorized work has not commenced within that period or has been discontinued for more than 365 calendar days from the date of issuance, such Certificate shall immediately expire, and the applicant shall be required to reapply.
- i.** If the Commission denies a Certificate, a new application affecting the same property may be submitted, provided a substantial change is proposed in the plans.
- j.** An appeal of a final action by the Commission may be made to the Board of Adjustment. Written notice of intent to appeal must be sent to the Commission, postmarked within twenty (20) calendar days following the Commission's decision. Appeals must be filed with the Board of Adjustment within sixty (60) calendar days following the Commission's decision and shall be in the nature of certiorari. A decision by Board of Adjustment may be appealed to the superior court of the County of Moore.
- k.** A Certificate shall be required for designated landmarks or buildings, structures, sites, areas, or objects within designated districts which are owned by the State of North Carolina or any of its agencies, political subdivisions, or instrumentalities, subject to the regulations of this ordinance and in accordance with N.C.G.S 160D-102;947.
- l.** In the case of any building, structure, site, area, or object designated as a historic landmark or of any property located within a designated historic district being threatened with demolition, as the result of willful neglect or otherwise, material alteration, rehabilitation, or removal, except in compliance with this ordinance, the Commission, the Board of Commissioners, or any other party aggrieved by such action may institute any appropriate action or proceeding to prevent, restrain, correct, or otherwise abate such violation, or to prevent any illegal act or conduct with respect to such property.

**Sec. 100.36 Development Administrator**

This Ordinance shall be administered and enforced by the Development Administrator who shall be appointed by the Town Manager. The Development Administrator is hereby authorized:

- 1. To issue a Development Permit prior to the authorization of the development of property or the issuance of a building permit.

2. To collect the designated fees in the administration of this Ordinance.
3. To investigate violations of the provisions of this Ordinance and enforce actions necessary for correction thereof. To enter upon private property at reasonable times in the carrying out of the duties.
4. To make and keep all records necessary and appropriate to the office including a record of issuance and denial of all Development Permits, Special Use Permits, Zoning Amendments, , Variances, Appeals and receipt of complaints of violations of this Ordinance and action taken on the same.
5. To appoint agents to act on the Administrator's behalf.

**Sec. 100.37 Conflict-of-Interest Standards**

1. Conflict-of-Interest Standards for Governing Boards and Appointed Boards:

Financial conflicts. A board member must not vote on a decision if the outcome would have a direct, substantial, and readily identifiable financial impact on the board member.

Relationship conflicts. A board member must not vote on a decision if the board member has a close family, business, or associational relationship with certain interested individuals (relationship with the property owner for a rezoning, the applicant for a text amendment, and an affected person for quasi-judicial decision).

Additional Conflicts for Quasi-Judicial Decisions. In addition to the financial and relationship conflicts, for quasi-judicial decisions a board member also must not vote if the board member has bias or undisclosed *ex parte* communications. This was the case under prior law also.

Resolving objections. Board members may recuse themselves. If there is objection to a board member participating, and the member chooses not to recuse, then the remaining members of the board must vote on the member's participation.

2. Conflict-of-Interest Standards for Administrative Staff:

Financial conflicts. A staff person cannot make a decision if the outcome would have a direct, substantial, and readily identifiable financial impact on that person.

Relationship conflicts. A staff person cannot make a decision if that person has a close familial, business, or other associational relationship with the applicant or other person subject to the decision.

Business conflicts. Staff cannot have a financial or employment interest in a business with a financial interest in a development in the jurisdiction. An exception is provided for when the staff person is the owner of the property.

Additional conflicts. The conflict standard also prohibits administrative staff from engaging in work that is inconsistent with their duties or the interest of the local government. Local government policy can help clarify those expectations.

Conflicts and Staff Recommendations. While the statute does not explicitly refer to staff recommendations (such as a recommendation on a rezoning), it is prudent to apply the same conflict-of-interest standards as when the administrator is the decision-maker.

## **Article 4. Permits and Approvals**

### **Sec. 100.38 Permits Required**

A. The use of property may not be substantially changed; substantial clearing, grading or excavation may not be commenced; and buildings or other substantial structures may not be constructed, erected, moved or substantially altered except in accordance with and pursuant to one or more of the following permits or approvals:

1. A development permit (also known as a zoning permit) issued by the Development Administrator or designee. A development permit may also incorporate sign, watershed, and floodplain approval.
2. A certificate of development compliance issued by the Development Administrator or designee.
3. A Special Use Permit issued by the Board of Commissioners.
4. Conditional Zoning with site plan approved by the Board of Commissioners.
5. A certificate of appropriateness issued by the Historic Preservation Commission, Development Administrator or designee.
6. Subdivision plat approval in accordance with Section 100.65

A development permit is the controlling form of approval for the use or development of land within the jurisdiction of the Ordinance and is a prerequisite to application for a building permit from Moore County. A development permit may be issued for development involving multiple activities on a property or for a single purpose such as change of use or to place a single sign. Issuance of a development permit shall be contingent upon the applicant having received all the other permits and approvals related to the land development activities that are to take place on the property, excepting the building permit. Typical prerequisite permits and approvals include, but are not limited to: sedimentation and erosion control plans; subdivision approval; site plan approval; driveway permits; and environmental permits. See Sections 100.64 and 100.65 for site plan and subdivision approval procedures.

B. Approvals listed in A. 1-5 above shall only be granted under this chapter when a review of the application submitted, including all attached plans and documents demonstrates that the development will comply with the provisions of this chapter if developed as proposed. Such plans and attachments as approved are incorporated into any permit issued except otherwise modified in accordance with this Article.

C. Permits and approvals shall be issued in the name of the applicant except that applications submitted by an agent shall be issued in the name of the principal.

**Sec. 100.38-1 No Occupancy or Use Until Requirements Fulfilled**

A. Issuance of all required approvals listed in A. 1-5 above authorizes the recipient to commence the activity resulting in a change of use of the land or to commence work designed to construct, erect, move or substantially alter buildings or other substantial structures.

B. No building or structure which has been erected, added to, relocated, or structurally altered for which a building permit has been issued shall be used or occupied nor the use of any building or land changed until 1) notice has been made to the Town of Carthage that the occupant is ready for occupancy, 2) town staff have inspected the site for issuance of zoning compliance to ensure that the requirements of the zoning development permit have been satisfied and 3) a Certificate of Occupancy has been issued by the Building Inspector stating that the building or structure or part thereof complies with the North Carolina State Building Code.

C. A certificate of zoning compliance must be issued by the administrator prior to or concurrent with issuance of a certificate of occupancy by Moore County.

**Sec. 100.38-2 Who May Submit Permit Applications**

A. Applications will only be accepted from persons having the legal authority to act in accordance with the permit or certificate. By way of illustration, in general this means that applications should be made by owners or lessees of property or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter, or the agents of such persons (who make applications in the names of such owners, lessees or contract vendees).

B. The applicant is not the owner of the property, the applicant shall demonstrate written authority to act on behalf of owner. Falsification of any information shall be considered a zoning violation, shall void the application and may result in revocation of any permits or approvals issued.

**Section 100.38-3 Staff Consultation Before Formal Application**

A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this chapter, pre-application consultation between the developer and the planning staff is strongly encouraged.

B. Before submitting an application for a special use permit or a site plan requiring Planning Board review or Board of Commissioner’s decision, the developer should submit to the Administrator a sketch plan of such subdivision, drawn approximately to scale (1 inch = 100 feet). The sketch plan shall contain:

1. The name and address of the owner and applicant, if not the same person;
2. The proposed name and location of the development;

3. The approximate total acreage of the proposed development;
4. The tentative streets, sidewalks or greenways and lot arrangements, and lot boundary lines;
5. Topographic lines;
6. Perennial streams, water bodies, floodplain and watershed boundaries, and setbacks therefrom (if any);
7. Proposed utilities layouts;
8. Proposed open space and recreation areas;
9. The locations of buildings or the building setback lines; and
10. Any other information the owner or applicant believes necessary to obtain the informal opinion of the planning staff as to proposed development's compliance with the requirements of this chapter.

The Administrator shall meet with the developer as soon as conveniently possible to review the sketch plan.

Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this chapter to the proposed development.

#### **Sec. 100.38-4 Applications to be Complete**

- A. All applications for development permit, conditional use, or certificates of appropriateness, must be complete before the permit-issuing authority is required to consider the application.
- B. Subject to subsection (C), an application is complete when it contains all the information that is necessary for the permit-issuing authority to decide whether the development, if completed as proposed, will comply with all the requirements of this chapter.
- C. In this chapter, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one (1) or more of the appendices to this chapter. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in light of the substantive requirements set forth in this text of this chapter. However, when this chapter requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one (1) or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Administrator. Failure to observe this requirement may result in permit revocation, or other penalty as provided in Article 6 of this chapter.
- D. All applications for Conditional Zoning or Special Use Permits, watershed development permits and floodplain development permits must be accompanied by a site plan of such proposal prepared by a N.C. Licensed Engineer, Architect or Professional Surveyor. The presumption established by this chapter is that all the information set forth in Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the Administrator may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Planning Board or Board of Commissioners, the applicant may rely in the first instance on the



recommendations of the Administrator as to whether more or less information than that set forth in Appendix A should be submitted.

- E. All applications for development permits except for applications for individual single family or duplexes dwellings on single lots or insignificant or minor modifications must be accompanied by a sketch plan prepared by a N.C. Licensed Engineer, Architect or Professional Surveyor. The presumption established by this chapter is that all the information set forth in this subsection is necessary to satisfy the requirements of this subsection. However, it is recognized that each development is unique, and therefore the Administrator may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Zoning Board of Adjustment, the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information than that set forth below be submitted.
- F. All applications for zoning permits for single family dwellings or duplexes on single lots must be accompanied by a sketch plan drawn to scale. The presumption established by this chapter is that information required for sketch plans set forth in Sec. 100.37-3B above is necessary to satisfy the requirements of this subsection. However, it is recognized that each development is unique, and therefore the Administrator may allow less information or require more information to be submitted according to the needs of the particular case.
- G. The Administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted.

#### **Section 100.38-5 Staff Consultation After Application Submitted**

A. Upon receipt of a formal application for a development permit or Certificate of Appropriateness, the Administrator shall review the application and confer with the applicant to ensure that he or she understands the planning staff's interpretation of the applicable requirements of this chapter, that the developer has submitted all of the information that he or she intends to submit, and that the application represents precisely and completely what he or she proposes to do.

B. If the application is for Conditional Zoning, a Special Use Permit or site plan review by the Planning Board or Board of Commissioners, the Administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the Administrator believes that the application is incomplete, he or she shall recommend to the appropriate board that the application may be denied on that basis.

C. Projects subject to B. above will be posted to the town website and the site will be posted to notify the public that review will be made by the Planning Board or Board of Commissioners.

#### **Section 100.38-6 Development Permits**

(A) A completed application form for a certificate of zoning compliance shall be submitted to the Administrator by filing a copy of the application with the Administrator.

(B) The Administrator shall issue the certificate of zoning compliance unless he finds, after reviewing the application and consulting with the applicant:

- (1) The requested use is not allowed within the zoning district in accordance with the Table of Permitted and Conditional Uses, or
- (2) The application is incomplete, or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those requirements concerning which a variance has been granted or those with which the applicant is not required to comply with under the circumstances specified in “Nonconforming Situations,” of Article 2).

### **Sec. 100.38-7 Special Use Permit**

An application for a Special Use Permit shall be submitted to the Board of Commissioners by filing a copy of the application with the Administrator.

### **Sec. 100.38-8 Public Hearing for a Special Use Permit Application**

A. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

B. The Board of Commissioners, after a quasi-judicial hearing, may decide, in particular cases, and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by the Table of Permitted and Conditional Uses. In granting a Special Use Permit, the Board shall make the following determinations.

1. The use requested is among those listed as an eligible Conditional Use in the Table of Permitted and Conditional Uses for the district in which the subject property is located;
2. The application is complete.
3. The conditional use meets all required conditions and specifications of this chapter; and that satisfactory provision and arrangement has been made for at least the following, where applicable:
  - a. Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control.

- b. Provision of off street parking and loading areas where required, with particular attention to the items in (1) above, and the economic, noise, glare and odor effects of the conditional use on adjoining properties in the area
- c. Adequate and proper utilities, with reference to location, availability and compatibility.
- d. Buffering, with reference to type, location and dimensions.
- e. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
- f. Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways, with reference to location, size and suitability.
- g. Buildings and structures, with reference to location, size and use.
- h. Hours of operation, with particular reference to protecting and maintaining the character of the neighborhood.
- i. Stormwater management

C. Even if the Town Board finds the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- 1. Will materially endanger the public health or safety, or
- 2. Will substantially injure the value of adjoining or abutting property, or
- 3. Will not be in harmony with the area in which it is to be located, or
- 4. Will not be in general conformity with the Land Use Plan, Comprehensive Transportation Plan, Bicycle and Pedestrian Plan or other plans officially adopted by the Town Board of Commissioners.
- 5. Will not meet one of the conditions required by this Ordinance (see Section 100.37-8D)

D. In granting a Special Use Permit, the Board may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done. Conditions shall not be put in place for which the local government does not have authority to enforce or for which the courts have held to be unenforceable. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of a Special Use Permit, otherwise the Permit shall be denied.

E. The conditions shall be accepted by the applicant/property owner in writing before the permit becomes effective.

F. Any Special Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently changed or amended by the Board, as provided for in this Section.

No proposal to amend or change any Special Use Permit shall be considered within six (6) months of the date of the original authorization of such Permit or within six (6) months of hearing of any previous proposal to amend or change any such Permit.

**Sec. 100.38-9 Burden of Presenting Evidence, Burden of Persuasion**

(A) The burden of presenting a complete application to the Board of Commissioners shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.

(B) Once a completed application has been submitted, the burden of presenting evidence to the Board of Commissioners sufficient to lead it to conclude that the application should be denied for any reasons stated above shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

(C) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any reasons set forth above rests on the party or parties urging that the requested permit should be denied.

### **Sec. 100.38-10 Board of Commissioners Action on Special Use Permits**

In considering whether to approve an application for a Special Use Permit, the Town Board shall proceed according to the following format:

(A) A simple majority vote of the Town Board is required to approve any motion related to the issuance of a Special Use Permit.

(B) The Town Board shall consider whether the application is complete. If the Town Board concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. If a motion to this effect is not approved, this shall be taken as an affirmative finding by the board that the application is complete.

(C) The Town Board shall consider whether the application complies with all of the applicable requirements of this chapter. If a motion to this effect passes, the Town Board need not make further findings concerning such requirements. If such a motion fails or is not made, then a motion shall be made that the application be found not in compliance with one or more of the requirements of this chapter. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the Town Board to be unsatisfied through this process.

(D) If the Town Board concludes that the application fails to comply with one or more requirements of this chapter, the application shall be denied. If the Town Board concludes that all such requirements are met, it shall issue the permit, unless it adopts a motion to deny the application for one or more of the reasons set forth in C above. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

(E) Subject to subsection (F), in granting a Special Use Permit, the permit-issuing board may, by a simple majority vote, attach to the permit such reasonable requirements in addition to those specified in this Chapter as will ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety,
- (2) Will not injure the value of adjoining or abutting property,
- (3) Will be in harmony with the area in which it is located, and
- (4) Will not be in general conformity with the Land Use Plan, Comprehensive Transportation Plan, Bicycle and Pedestrian Plan or other plans officially adopted by the Town Board of Commissioners.
- (5) Meets the specific conditions applicable (See Section 100.37-8D).

(F) The permit-issuing board may not attach additional conditions that modify or alter the specific requirements set forth in this chapter unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(G) Without limiting the foregoing, the Board of Commissioners may attach to a permit a condition limiting the permit to a specified duration.

(H) All additional conditions or requirements shall be entered on the permit.

(I) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

(J) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any reasons set forth above.

### **Sec. 100.38-11 Authorizing Use, Occupancy, or Sale Before Completion of Development**

(A) Performance Guarantee.

(1) In cases when, because of weather conditions or other factors beyond the control of the Special Use Permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter before commencing the intended use of the property or occupying any buildings, the permit-issuing authority may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this chapter are concerned) if the permit recipient provides a performance guarantee to the board to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve (12) months) determined by the permit-issuing authority. The performance guarantee shall be payable to or in favor of the town and shall be in an amount equal to 125% of the reasonably estimated cost of the completion of the project, as estimated by the developer and approved by the permit-issuing board. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained. The permit recipient may

elect which performance guarantee he or she will use from the range of options specified in N.C.G.S 160D-804; 804.1.

(2) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.

(3) The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(B) In the case of a failure on the part of the developer to timely complete all improvements, the Administrator shall immediately call either the entire performance guarantee or as much of said guarantee as is necessary to complete the remaining improvements. The town shall return to the developer any funds not spent in completing the improvements.

(C) The permit issuing authority shall release a portion of any performance guarantee as the improvements are completed.

(D) When the Board of Commissioners imposes additional requirements upon the permit recipient as a result of a Special Use Permit with a site development plan or when the developer proposes in the plans submitted to install amenities beyond those required by this chapter, the Board may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

(1) A performance guarantee is furnished to the permit-issuing board and administered by the town in the manner described in subsection (A);

(2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made; or

(3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by enforcement provisions in Article 6.

### **Sec. 100.38-12 Certificates of Zoning Compliance**

A. The permit applicant shall notify town staff when all development activities subject to a permit have been completed prior to placing the development into use and prior to issuance of a Certificate of Occupancy by Moore County,

B. Town staff will inspect conduct an inspection and notify the applicant through a Certificate of Zoning Compliance that the development activities have been satisfactorily completed.

C. The applicant shall not place use into operation until notified by town staff that all requirements have been satisfied.

### **Sec. 100.38-13 Expiration of Permits**

(A) Development permits shall expire after 365 days, Certificates of Appropriateness after one year and Special Use Permits after 2 years if:

(1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or

(2) Less than ten (10) percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased developments, this requirement shall apply only to the first phase.

(B) Permit expirations are automatic and require no additional action by the permit-issuing authority.

(C) If, after some physical alteration to land or structures begins to take place, such work is then discontinued for a period exceeding the expiration periods of (A) above, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 100.37-15, Effect of Permit on Successors and Assigns.

(D) The permit-issuing authority may extend for a period up to one (1) year the date when a permit would otherwise expire if it concludes that:

(1) The permit has not yet expired,

(2) The permit recipient has proceeded with due diligence and in good faith, and

(3) Conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to one (1) year upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(E) For purposes of this section, the permit within the jurisdiction of the Board of Commissioners is issued when it votes to approve the application and issue the permit. A permit within the jurisdiction of the Administrator is issued when the earlier of the following takes place:

(1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or

(2) The Administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions and those actions have been completed.

(F) Notwithstanding any of the provisions Article 2, "Nonconforming Situations," of this chapter, this section shall be applicable to permits issued prior to the date this section becomes effective.

## **Sec. 100.38-14 Effect of Permit on Successors and Assigns**

(A) The permits authorized in Article 4 authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continue to be used for the purposes for which the permit was granted, then:

(1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

(2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in subsection (B)) of the existence of the permit at the time they acquired their interest.

(B) Whenever a Special Use Permit is issued to authorize development, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued and the permit is subsequently recorded in the Moore County Registry and indexed under the record owner's name as grantor.

## **Sec 100.38-15. Amendments to and Modifications of Permits**

(A) Minor Changes. Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Unless it is requested by the permit-issuing authority, no public hearing shall be required for such minor modification. For the purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

An example of a minor modification is a change of use from one type of retail to another that is allowed in a given zoning district and does not result in a site plan change. Another example is moving a dumpster location when the dumpster will remain fenced and vegetatively screened and be no closer to nearby residential properties.

(B) Major Changes. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Commissioners, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

Examples of major changes would be increases in overall parking area, additions of new buildings, rerouting drive aisles.



(C) The Administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (A), (B), and (C).

(D) An applicant requesting a change in approved plans shall point out to the Administrator, specifically and in writing, what deviation or changes are requested. The Administrator shall respond in writing. No changes shall be authorized except in conformity with this section.

(E) When (i) a request for a change in a permit is made under this section (whether for a minor modification, or major modification), and (ii) the use of the property is not changed, and (iii) some type of nonconforming situation other than a nonconforming use exists on the property, then the permit change may be approved without requiring the elimination of the nonconforming situations. However, (i) any new development authorized by the permit change shall comply with current standards to the extent reasonably practicable, and the permit issuing authority may require the elimination of nonconforming situations when the cost (financial and otherwise) of doing so is clearly proportional to the benefits of elimination of such nonconformity.

### **Sec. 100.38-16 Reconsideration of Board Action**

(A) Whenever (i) the Town Board disapproves a Special Use Permit application, or (ii) the Board of Adjustment denies an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

(1) Circumstances affecting the property that is the subject of the application have substantially changed; or

(2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Administrator within the time period for an appeal to superior court. However, such a request does not extend the period within which an appeal must be taken, or

(3) One of the members in the majority during the vote to deny moves for reconsideration.

(B) Notwithstanding subsection (A), the Town Board or Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

### **Sec. 100.38-17 Applications to be Processed Expeditiously**

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

## **Article 5. Amending the Development Ordinance**

### **Sections 100.39-100.40 Reserved for Future Use**

## **Section 100.41. Purpose**

The Board of Commissioners may see need to amend the Development Ordinance from time to time to address the changing needs of the community or seek consistency with an adopted Comprehensive Land Development Plan.

## **Section 100.42. Types of Amendments**

Amendments may be to the text of the ordinance or take the form of map amendments, often known as rezoning. The Town of Carthage recognizes three types of amendments.

**1. Text Amendments.** This type of amendment is used when a party chooses to modify the actual text of the ordinance. This is a legislative decision by the Board of Commissioners.

**2. Map Amendments.** This type of amendment is used when a party chooses to change a zoning district from one type to another. Often known as a straight rezoning, it recognizes that the change in district allows for all uses allowed within a given zoning district. It cannot be conditioned in any way. This is a legislative decision by the Board of Commissioners.

**3. Conditional Zoning.** Conditional Zoning is an amendment process that is both a map amendment and a text amendment. It is a legislative decision by the Board of Commissioners, but it allows for the placement of conditions and/or limits on the approval.

## **Section 100.43 Initiation of Amendment**

Text and Map Amendments to the Development Ordinance may be initiated by any party including: elected officials, the planning board, staff or citizens. Conditional Zoning must be initiated at the property owner's request.

## **Section 100.44 Amendment Procedure for Text Amendments and Map Amendments.**

### **1. Petition for Amendment**

A petition for text amendment or map amendment shall be filed on application forms provided by the town and accompanied by the appropriate fee. If the request is filed from within the local government, it may be initiated by a staff report. The applicant is encouraged to review the Town of Carthage adopted Land Use Plan and any other relevant long-range plans such as the Bicycle and Pedestrian Plan for consistency with their petition.

### **2. Call for Public Hearing or Decision to Summarily Dismiss**

The Board of Commissioners shall set a date for public hearing of any petition for amendment. At that time, the Board may determine that they do not wish to consider amending the Zoning Map or Land Development Ordinance. If such is the case, the Board may vote to summarily dismiss the case and not conduct a public hearing. The reason the case shall not be heard is to be included in the public record of the meeting.

A proposed zoning map amendment may not be reconsidered and may be summarily dismissed if an amendment for the same property is submitted again within one year's time unless the Board of Commissioners determines that there is a compelling reason to rehear a map amendment.

In setting the public hearing date, sufficient time shall be provided to allow for input from the Planning Board and for all public notice requirements to be met.

### **3. Public Notice**

#### **A. Published Notice.**

The town shall publish two notices, the first not less than 10 days or more than 25 days before the hearing and the second in a separate calendar week in a newspaper of general circulation. The content shall include the purpose of the meeting, the date, time and location. If the public hearing involves a map amendment, sufficient information shall be provided to locate the property for which the amendment is proposed.

#### **B. Mailed Notice (for map amendments).**

First class mailed notice is required for map amendments and must be sent to all abutting property owners as well as the owner of the property for which the amendment is being requested as identified in the Moore County Tax Registry. The notice must be mailed at least 10 days but not more than 25 days before the hearing. The notice shall include the content of the published notice as well as a location map of the property proposed for rezoning.

Staff shall retain a copy of the mailing, a list of recipients, and certification by the person making the mailing as to when it was done.

#### **C. Posted Notice (for map amendments).**

A notice of the proposed hearing shall be posted on the affected site. If the property is greater than 10 acres and fronts on more than one road, a notice shall be posted on each road.

#### **D. Notice to Property Owner (for map amendments).**

If a petition for map amendment is initiated by someone other than the owner of the property or the town, notice of the hearing shall be mailed to the owner. Although not required, the town shall also forward a copy of the petition to the owner of the property.

#### **E. Large scale map amendments.**

Whenever a rezoning has the potential to affect more than 50 properties with at least 50 different property owners, the town may choose to use expanded published notice instead of individual mailed notice. The expanded public notice shall include two half page ads published not less than 10 days no more than 25 days before the hearing with the second in a separate calendar week in a newspaper of general circulation. The site shall also be posted and mailed notices shall be sent to property owners residing outside of the newspaper's area of circulation.

### **4. Planning Board**

All proposed Development Ordinance amendments must be given review by the Planning Board for a recommendation to the Board of Commissioners. They are not required to conduct a public hearing, but

they are encouraged to accept public input. The Planning Board shall evaluate all proposals for consistency with any adopted long-range plans and adopt a statement of consistency with said plans before voting to recommend approval or denial of the request.

## **5. Board of Commissioners**

The Board of Commissioners shall conduct a public hearing regarding the petition. The Planning Board recommendation and Statement of Consistency shall be provided to the Board of Commissioners. The Board of Commissioners shall consider the Planning Board recommendation, but they are not bound by it. The Board of Commissioners may choose to make their decision to approve or deny at the same meeting or a subsequent meeting. The Board shall first adopt a Resolution of Consistency with the adopted Land Use Plan and other long-range plans then the Board shall vote on the petition. The Resolution of Consistency may take one of three forms consistent with N.C.G.S 160D-604(d); 605(a); 701.

- A. Approve the amendment and describe its consistency with the adopted Land Use Plan.
- B. Reject the zoning amendment and describe its inconsistency with the adopted Land Use Plan.
- C. Approve the amendment and deem it a modification of the adopted Land Use Plan. The Board shall describe why the action taken is reasonable and in the public interest. In certain circumstances, it may be beneficial for the Planning Board to convene with the Board of Commissioners during the public hearing prior to making their recommendation. Once the hearing is conducted, the Planning Board may then reconvene to make their recommendation the same day or at a subsequent Planning Board meeting for transmittal to the Board of Commissioners.

### **Section 100.45 Amendment Procedure for Conditional Zoning**

A petition for conditional zoning shall be filed on forms provided by the town and accompanied by the appropriate fee. It is a legislative process that shall only be initiated upon the owner's request and shall follow the procedures of Section 100.44 1 through 5 subjects to the following.

- A. A petition for conditional zoning must include, at a minimum, a site plan that complies with the requirements of Article 9, 100.56A – 100.67 of General Use District Standards and Article 11, Overlay Districts as well as a narrative that specifies any proposed rules, regulations, and conditions and any other proposed ordinances that will govern the development and use of the property in conjunction or in lieu of the requirements of the Carthage Development Ordinance.
- B. The applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information should be submitted.
- C. In the course of evaluating the proposed use, the Administrator, Planning Board or the Board of Commissioners may request additional information from the petitioner. This information may include the following:
  - 1. Proposed number and general location of all structures;

2. Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
  3. Existing and approximate proposed topography, if available, at two-foot contour intervals or less;
  4. Scale of buildings relative to abutting property;
  5. Height of structures;
  6. Significant features of proposed development such as enhanced buffers or external setbacks, greenways and open space;
  7. Approximate locations of roads and points of ingress and egress;
  8. Information regarding availability of utilities to serve the project;
  9. Proposed number and location of signs; and
  10. Any other information needed to demonstrate compliance with this chapter.
- D. The site plan and any supporting text shall constitute part of the petition for all purposes under this part.
- E. The Planning Board and applicant shall conduct a public meeting for the purpose of soliciting input regarding the petition and its effect on the community. The public meeting may be included in the public hearing notice or noticed separately to the community using one of the following:
1. A community meeting sign shall be posted on the property with a number to call for information regarding date, place and time.
  2. A mailed notice shall be sent to adjacent property owners. The cost of the notice shall be borne by the applicant.
  3. Published notice one week before the meeting in a newspaper of general circulation may be used. The cost shall be borne by the applicant.
- F. One electronic copy of the materials shall be provided along with one printed set no larger than tabloid paper size. If the applicant chooses to provide larger scaled materials, 11 copies shall be provided.
- G. Conditions on Approval of Petition and Effect
1. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend and the Board of Commissioners may request that reasonable and appropriate conditions be attached to approval of the petition.
  2. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to town ordinances and all relevant officially adopted plans. Conditions and site-specific standards may also address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate, or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county, or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The Board of Commissioners may approve conditions that vary, lower or impose

higher standards than those that would ordinarily apply were the property at issue rezoned to something other than a conditional zoning district.

3. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the petitioner may be incorporated into the petition.

4. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site 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 town Zoning Map.

#### H. Modification of Approval

Changes to an approved petition for conditional zoning or to the conditions attached to an approved petition for conditional zoning shall be treated the same as amendments to the text of this ordinance or to the official Zoning Map and shall be processed in accordance with the requirements of this article. Notwithstanding the foregoing, the Board of Commissioners may, as part of the conditions imposed on the conditional district, include a list of modifications that may be approved by Administrator or other appropriate town staff without further review by the Town Board.

Following approval of conditional zoning, the property shall be defined on the town Zoning Map by the appropriate district designation plus CZ to identify that a condition also applies. Such amendments are considered part of the Development Ordinance and will be appended to the Development Ordinance.

### **Section 100.46 Requirements for all Amendment Types**

#### **A. Spot Zoning**

All types of zoning amendments as listed in Section 100.42 that include a map amendment shall undergo evaluation for a spot zoning determination. Spot zoning is the practice of zoning a relatively small area, usually owned by a single entity differently from the surrounding property. Spot zoning is not illegal, but the burden is on the town to demonstrate that the request is reasonable. Reasonableness is demonstrated by evaluating the following:

1. The size of the tract in question.
2. Compatibility with the adopted land use plan.
3. Compatibility with nearby and adjacent uses.
4. Demonstrating that the applicant is not unduly favored to the detriment of nearby property owners.

#### **B. Written Statements**

Written statements received from the public by the Town Clerk prior to a public hearing shall be provided to the Board of Commissioners. If the comments are submitted regarding a conditional zoning amendment, only the names and addresses of the commenters and not the substance of the comments may be provided

to the Board before the hearing. The evidentiary quasi-judicial conditional zoning hearing requires that the parties be available for cross examination during the hearing.

### **C. Notice to NCDOT**

Pursuant to NCGS 136-153 (Zoning Changes), the Administrator shall give written notice to the Department of Transportation of the establishment or revision of any industrial zone within six hundred and sixty (660) feet of interstate or primary highways. Notice shall be by registered mail sent to the offices of the N.C. Department of Transportation in Raleigh within fifteen (15) days after the effective date of the zoning change or establishment.

### **D. Development Agreement**

As specified in N.C.G.S 160D-1005, the Town may establish procedures and requirements to consider and enter into development agreements with developers. A development agreement must be approved by the governing board for the Town. The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. The agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

Before entering into a development agreement, the Town shall conduct a legislative hearing on the proposed agreement. The notice provisions of N.C.G.S 160D-602 applicable to zoning map amendments shall be followed for this hearing. The notice for the hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

A development agreement shall, at a minimum, include the following:

1. A description of the property subject to the agreement and the names of its legal and equitable property owners.
2. The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
3. The development uses permitted on the property, including population densities, and building types, intensities, placement on the site, and design.
4. A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

5. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
6. A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
7. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date does not, in and of itself, constitute a material breach of the development agreement pursuant to N.C.G.S 160D-1008 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement. If the Town and another local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to N.C.G.S 160D-1003 or as provided for in the development agreement. Any performance guarantees under the development agreement shall comply with N.C.G.S 160D-804.1. Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement. In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the Town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

Procedures established pursuant to N.C.G.S 160D-1003 may include a provision requiring periodic review by the zoning administrator or other appropriate officer of the local government, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement. If the Town finds and determines that the developer has committed a material breach of the agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach. If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the board of adjustment in the manner provided by N.C.G.S 160D-405.

An ordinance adopted pursuant to N.C.G.S 160D-1003 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the



development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement. Subject to the provisions of N.C.G.S 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties.

Any development agreement entered into by the Town before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The Town and the parties included within the development agreement have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction. The Town may modify or suspend the provisions of the development agreement if it determines that the failure of the Town to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both.

**Sec. 100.46A Maximum Number of Application**

No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of twelve (12) months from:

1. The date of final determination by the Board of Commissioners; or
2. The date of the public hearing or scheduled public hearing if the application is withdrawn after it has been advertised for public hearing.

Fees submitted for withdrawn cases are not refundable.

**Sec. 100.47 Reserved for Future Use**

**Article 6. Administration and Enforcement**

**Sec. 100.48 Duties of Administrator, Board of Adjustment, Courts and Board of Commissioners to Matters of Appeal**

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 Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the Administrator; and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law. It is further the intention of this Ordinance that the duties of the Board of Commissioners in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the Board of Commissioners in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

**Sec. 100.49 Violations; Remedies**

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Article and by State law.

1. Development without Permit

To engage in any development, use, construction, remodeling or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates or other forms of authorization as set forth in this Ordinance.

2. Development Inconsistent with Permit

To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate or other form or authorization granted for such activity.

3. Violation by Act or Omission

To violate, by act or omission, any term, variance, modification, condition or qualification placed by the Board of Commissioners or its agent boards upon any required permit, certificate, or other form of authorization for the use, development or other activity upon land or improvements thereon.

4. Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

5. Continue a Violation

Each day's continuance of any of the above violations is a separate and distinct offense.

**Sec. 100.50 Inspection and Investigation**

In order to determine violations of this ordinance the Administrator shall have the following rights and powers.

1. Inspections

The Administrator shall have the right upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.

2. Investigations

The Administrator shall have the power to conduct such investigations as the Administrator may reasonable deem necessary to carry out the Administrator's duties as prescribed in this Ordinance and, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

### 3. Supporting Documentation

The Administrator shall have the power to require written statements, certificates, certifications or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

## **Sec. 100.51 Enforcement Procedure**

If the Administrator shall find that any of the provisions of this Ordinance are being violated, the Administrator shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or additions; alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violations of its provisions.

### 1. Notice of Violation

If the owner or occupant of the land, building, structure, sign or use in violation fails to take prompt corrective action, the Administrator shall give the owner or occupant written notice (may deliver to occupant or person undertaking the activity; delivery by hand, email or first-class mail; may be posted on site) of the following:

- a. That the land, building, structure, sign or use is in violation of this Ordinance;
- b. The nature of the violation and citation of the Section (s) of this Ordinance violated; and
- c. The measures necessary to remedy the violation.

### 2. Appeal

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Administrator to the Board of Adjustment within fifteen (15) days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify or revoke the Notice of Violation. In the absence of an appeal, the decision of the Administrator shall be final.

### 3. Notice of Decision

The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service or by first class mail.

## **Sec. 100.52 Failure to Comply with Notice**

If the owner or occupant of a property fails to comply with a Notice of Violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the owner or occupant shall be subject to the penalties and remedies as set forth in Sec. 100.53 or to such remedies and penalties as may be provided by the State law.

## **Sec. 100.53 Remedies**

Any or all of the following procedures may be used to enforce the provisions of this Ordinance.

### **1. Injunction**

Any violation of this Ordinance or of any condition, order, requirement or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated or enjoined by other appropriate proceeding pursuant to State law.

### **2. Civil Penalties**

Any person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Sec. 100.54

### **3. Denial of Permit or Certificate**

The Administrator shall withhold or deny any permit, certificate or other authorization on any land, building, structure, sign or use in which there is an uncorrected violation or a provision of this Ordinance, or of a condition or qualification of a permit, certificate or other authorization previously granted.

### **4. Conditional Zoning, Special Use Permit, or Temporary Certificate**

The Administrator may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time or the posting of a compliance security approved by appropriate governmental authority.

### **5. Stop Work Orders**

Whenever a building, sign or part thereof is being constructed, reconstructed, altered or repaired in violation of this Ordinance, the Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with N.C.G.S 160D-404(b); 1114 or the NC Building Code.

## 6. Revocation of Permits or Certificates

The Administrator may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application, plans or specifications; refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable State or local law may also be revoked.

### **Sec. 100.54 Penalty**

Violations of this Ordinance shall subject the offender to a civil penalty upon the issuance of a citation for said violations as hereinafter provided. The civil penalty, if not paid to the Town within fifteen days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Said civil penalties shall be in the amount specified in the Town's schedule of fees and charges and each day any single violation continues shall be a separate violation.

In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from any court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

In addition to the civil penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by laws and rules governing civil proceedings, including the Rights of Civil Procedure in general and Rule 65 in particular.

An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refused to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

The provisions of this Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.

Upon determination of a violation of any section of this Ordinance, the penalty for which is a civil penalty, the Administrator shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the date of the violation and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.

An appeal from a warning citation shall be taken within ten (10) days from the date of such warning citation and the Board of Adjustment, in considering such appeal, shall, notwithstanding other powers as may be granted, have power only in the manner of administrative review and interpretation where it is alleged that the Administrator has made an error in the application of the Ordinance, in the factual situation as it relates to the application of the Ordinance, or both.

Where the Administrator determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the Administrator may amend the warning citation to provide additional time. The warning citation shall specify that a second citation shall incur penalty, together with costs and attorney fees.

Upon failure of the violator to obey the warning citation a civil citation shall be issued by the Administrator and either directly on the violator, the violator's duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the Town or obtained from the violator at the time or issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to pay the civil assessment within fifteen (15) days of the date of citation. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

If the violator fails to respond to a citation within fifteen (15) days of its issuance, and pay the penalty prescribed therein, the Town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of penalty, costs, attorney fees and such other relief as permitted by law.

## **DIVISION II REGULATORY PROVISIONS**

### **Article 7. Zoning District Categories Created**

For the purposes of this Ordinance, three (3) categories of Zoning Districts are created.

#### **A. General Use Zoning Districts Created**

General Use Zoning Districts are created to provide comprehensive land use regulations throughout the jurisdiction of the Ordinance. There are twelve (12) General Use Zoning Districts that provide for a variety of uses that are appropriate to the character of the individual districts throughout the jurisdiction of this Ordinance. See Article 8.

**B. Conditional Zoning Districts Created**

Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to carry out the purposes of this Ordinance, proposes to impose special limitations and conditions on the use of the property proposed for rezoning. For each General Use Zoning District, there is a corresponding Conditional Zoning District. See Article 10.

**C. Overlay Zoning Districts Created**

Overlay Zoning Districts are created to provide special additional development standards for specially identified areas. Overlay Zoning Districts combine with the regulatory provisions of the underlying General or Conditional Zoning Districts to provide additional or different standards. There are two (2) Overlay Zoning Districts. See Article 11.

**Article 8. General Use Zoning Districts**

For the purpose of this ordinance, the jurisdiction as established is hereby divided into the following general use zoning districts:

**A. RA-40 Residential Agricultural District.**

The RA-40 district is primarily designed to accommodate a compatible mixture of single family dwellings and agricultural uses at lower densities of approximately one unit or less per acre. These areas are generally found in areas without sewer service that are not yet appropriate for development at higher densities.

**B. R-20 Residential.**

The R-20 district is primarily designed to accommodate single family dwellings at lower densities of approximately two units per acre.

**C. R-10 Residential.**

The R-10 district is primarily designed to accommodate single family dwellings at medium densities of approximately four units or less per acre.

**D. RM-10 Residential.**

The RM-10 district is primarily designed to accommodate single family dwellings at medium densities of approximately seven units or less per acre, and to provide for a variety of residential structures in medium density neighborhoods.

**E. R-MH Mobile Home**

The R-MH district is primarily designed to accommodate a compatible mixture of single family (including mobile homes), two family, and multifamily dwellings at higher densities, as set out herein.

**F. R-HD Residential Historic District.**

The R-HD district is primarily designed to accommodate a compatible mixture of single family, two family, and multifamily dwellings at lower densities of approximately two units or less per acre while preserving the historic character of the district.

**G CBD Central Business District.**

The CBD district is primarily designed to provide convenient shopping and service facilities by promoting compact development of commercial, office, and service uses while preserving the historic character of the district.

**H. B-2 Central Business District Fringe.**

The B-2 district is primarily designed to provide roadside uses which will best accommodate the needs of the motoring public and of businesses demanding high volume traffic. This district includes the Central Business District fringe area.

**I. TBD Thoroughfare Business District.**

The TBD district is primarily intended to accommodate a wide range of high intensity retail and service developments meeting the need of the community and the region. The district is established on large sites to provide locations for major developments which contain multiple uses, shared parking and drives, and coordinated signage and landscaping.

**J. HCD Highway Commercial District.**

The Highway Commercial District (HCD) is established to provide primarily for auto-dependent uses in areas not amenable to easy pedestrian access and a comfortable pedestrian environment. Because of the scale and access requirements of uses in this category, they often cannot be compatibly integrated within the Thoroughfare Business District. Development at district boundaries must provide a compatible transition to uses outside the district; property boundaries with frontages on major or minor arterials will require landscaping.



## **K. I Industrial District.**

The I district is primarily designed to accommodate those industrial, wholesaling, mixed industrial, warehousing, and other uses which by their nature do not create an excessive amount of noise, odor, smoke, dust, airborne debris or other impacts which might be detrimental to the health, safety, or welfare of surrounding areas.

## **L. AP Airport District**

The AP district is primarily designed to accommodate unified developments comprised of airport facilities and agricultural uses, and which may include commercial, industrial, or service uses.

## **M. Conditional Zoning Districts Established**

Conditional zoning districts are hereby established. Conditional zoning districts allow for the establishment of certain uses which because of their nature or scale have particular impacts on both the immediate area and the community as a whole. The development of these uses or combinations of uses cannot be predetermined or controlled by general district standards. Instead, these districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. This method of zoning is particularly suited to planned developments and in situations in which mitigation of impacts is needed to protect adjoining properties and uses.

## **Article 9. General Use District Standards**

The General Use Districts as established by this Article shall comply with all of the general and specific requirements of this Ordinance and in particular shall comply with the following standards and requirements:

- A. Uses. See Sec. 100.55 entitled Table of Permitted and Conditional Uses.
- B. Special Requirements. See Sec. 100.56 entitled Special Requirements for the Table of Permitted and Conditional Uses.
- C. General and Dimensional Standards. See Sec. 100.57 entitled General and Dimensional Standards.
- D. Off-Street Parking and Loading. See Sec. 100.58 entitled Off-Street Parking and Loading.
- E. Signs. See Sec. 100.59 entitled Sign Regulations.
- F. Buffer yards/Landscaping. See Sec. 100.60 entitled Buffer yards/Landscaping.

- G. Outdoor Lighting. See Sec. 100.61 entitled Outdoor Lighting.
- H. Appearance. See Sec. 100.62 entitled Appearance Standard.
- I. Flood Damage Prevention. See Sec. 100.63 entitled Flood Damage Prevention Standard.
- J. Site Plan. See Sec. 100.64 entitled Site Plan.
- K. Subdivision. See Sec.100.65 entitled Subdivision.
- L. Soil Erosion. See Sec. 100.66 entitled Soil Erosion and Sedimentation Control.
- M. General Environmental. See Sec. 100.67 entitled General Environmental.

### **Sec. 100.55 Table of Permitted and Special Uses**

The Table of Permitted and Special Uses which follows contains a listing of uses which may be permitted in one or more of the various Zoning Districts established by this Ordinance. Uses are listed in alphabetical order in functional categories.

The listings of Permitted and Special Uses in the various Districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various Districts. In determining proposed uses, the Administrator shall classify the form and function of the use. When a proposed use is not specifically listed in the Table of Permitted and Special Uses, the Administrator shall determine if the use is the same as or manifestly similar to, a listed use in form and function. If the Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed one. If the Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In such cases, the Administrator shall maintain a written record of such determinations.

### **Sec. 100.56 Meaning of Entries**

The meanings of the entries in the Table are as follows:

- A. "P" indicates the use is permitted and a development permit may be obtained after site plan approval.
- B. "S" indicates the use must obtain a special use permit from the Board of Commissioners in accordance with the procedures set forth in Section 100.48
- C. "CZ" indicates the use can only be approved through the Conditional Zoning process in accordance with the procedures set forth in Section 100.46.

- D. The column on the far right, labeled “SR” (Special Requirements) means there are special additional performance requirements that the use must comply with in its development. See Sec. 100.56.
  
- E. The listing of a use in the Table of Permitted and Special Uses in no way relieves that use of having to meet all local, State and Federal laws pertaining to the establishment and operation of that use.

## **Sec. 100.56A\* Special Requirements to the Table of Permitted Uses**

The Table of Permitted and Special Uses contains a column on the far right labeled “SR” for Special Requirements. In any case where a use listed in the Table of Permitted and Special Uses has a number in the SR column opposite the use, the use must comply with the additional “Special Requirements” contained in this section corresponding to the Special Requirements number. For example, the use “Mobile Home Park” has the number “7” in the SR column opposite the use, therefore, the development of a Mobile Home Park must meet the special requirements for SR “7” Mobile Home Park of this section.

### **SR 1. Agriculture, Animals, etc.**

- A. The keeping and raising of animals within the town limits shall be regulated by the appropriate animal control code.
- B. Hog and poultry production is specifically prohibited.
- C. No animal keeping structure shall be located closer than fifty (50) feet to any residential property line or one hundred (100) feet to any residence not a part of the operation.
- D. Chickens may be kept for purposes other than as part of a bona fide agricultural operation, provided that they shall be allowed only in the R-10, R-20, RA-40, I and TBD zoning districts subject to the following additional requirements.
  - 1. Maximum Number of Animals. Any number of chickens may be kept on a single lot, provided the minimum acreage requirement of one chicken per 5000 square feet of lot area is met.
  - 2. Additional Requirements for Chickens.
    - a. Chickens are the only type of domestic fowl permitted pursuant to this ordinance.
    - b. Roosters are prohibited.
    - c. Chickens, roosters and other domestic fowl living outside the planning and zoning jurisdiction of the town may be brought into the town planning and zoning jurisdiction for temporary events such as festivals and other special events, provided that no such fowl shall be allowed to remain for more than three (3) days.
    - d. Coops and yarding areas (i.e. the areas where chickens roam outside the coop) shall be located in back yards or pastures/fields located to the rear of a dwelling. No coop or yarding area may be located in a front or side yard, pasture or field.
    - e. Chickens shall be kept in coops at night time, but they may be allowed to roam during the day in the yarding area.
    - f. Coops and yarding areas shall be fully enclosed by a perimeter fence. Coops shall be located within the yarding area and shall be set back either a minimum of thirty (30) feet from solid perimeter fencing or a minimum of one hundred (100) feet from open wire perimeter fencing.
    - g. Slaughter is not allowed.

- h. Provided that the requirements of this section are met, no certificate of zoning compliance shall be required for coops or yarding areas.
- i. Nonconforming situations: The effective date of this ordinance is September 8, 2015. Coops and yarding areas that were lawful prior to the effective date of this ordinance shall be subject to Article 2, Nonconforming Situations, of this code. The owners of coops and yarding areas that were unlawful prior to the effective date of the ordinance shall have six (6) months from the effective date to bring said coops and yarding areas into conformity with this ordinance. Roosters living within the planning and zoning jurisdiction of the town as of the effective date of this ordinance may remain until they die, but they shall not be replaced. Chickens or other domestic fowl living within the planning and zoning jurisdiction of the town as of the effective date of this ordinance that are illegal or lawful nonconformities with respect to this ordinance may remain until they die, but they shall not be replaced.

E. Beehives are permitted without a permit subject to the following:

- 1. Up to five (5) beehives may be allowed on any parcel of land within the corporate limits of Carthage, provided that the following criteria are satisfied:

- a. Hives shall be placed at ground level or securely attached to an anchor or stand.
- b. Location:
  - 1. Hives placed less than twenty-five (25) feet from property lines, sidewalks or streets shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) above ground level over the property lines in the vicinity of the hives.
  - 2. Hives placed at least twenty-five (25) feet from property lines, sidewalks and streets do not have to provide a flyway barrier.

- 2. There are no limits on the numbers of hives allowed on property within the extraterritorial jurisdiction of the town, provided that the following criteria are satisfied:

- a. Hives shall be placed at ground level or securely attached to an anchor or stand.
- b. All hives shall be located at least 200 feet in any direction from all property lines of the tract on which the hives are located.
- c. Up to five (5) hives may be placed less than 200 feet from a property line, provided that such hives shall comply with the following:
  - 1. Hives twenty-five (25) feet from property lines, sidewalks or streets shall establish and maintain a flyway barrier at least six (6) feet in height

consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) above ground level over the property lines in the vicinity of the hives.

2. Hives placed at least twenty-five (25) feet from property lines, sidewalks and streets do not have to provide a flyway barrier.

3. The town may require the removal of any hive that is no longer maintained or if removal is necessary to protect the health, safety, or welfare of the public.

F. Bona fide farms in the Town's extraterritorial jurisdiction are exempt from Town zoning to the same extent that they are exempt from county zoning. County zoning regulations may not affect property used for bona fide farm purposes; provided, however, that this does not limit zoning regulation with respect to the use of farm property for nonfarm purposes.

**SR 2. Adult Day Care Facilities, five (5) or fewer persons**

Maximum Number of Attendees: An adult day care center with five (5) or fewer attendees may be operated as a home occupation subject to the development standards for a home occupation.

**SR 3. Nursing and Convalescent Homes; Congregate Care and Group Care**

A. A minimum of 20,000 square feet shall be required to establish any one of the above uses.

B. All structures including secondary and accessory structures shall be located a minimum of fifty (50) feet from any street line and, twenty (20) feet from any other property line.

C. Any use listed above located in a residential district on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.

D. Existing uses as described above which do not meet the 20,000 square foot minimum requirement of (1) above at the time of the adoption of that provision may expand or be reconstructed provided such expansion or reconstruction meets the minimum dimensional requirements of the district in which located.

**SR 4. Family Care Home and Family Day Care Homes**

A. A family care home with six (6) or fewer persons or a family day care home with six (6) or fewer persons may be operated as an accessory use to a principal dwelling.

B. No such home shall be located within one-half (1/2) mile of any other such home.

**SR 5. Home Occupation**

A home occupation shall be operated in conformance with the following standards:

- A. No person other than members of the immediate family occupying such dwelling shall be employed.
- B. No stock in trade (except articles produced by the members of the immediate family residing on the premises) shall be displayed or sold upon the premises.
- C. No alteration of the principal building shall be made which changes the character thereof as a dwelling.
- D. No more than twenty-five percent (25%) of the area of the dwelling shall be devoted to any home occupation. If an accessory structure is used, the entirety of any accessory building may be used up to 50% the size of the footprint of the principal dwelling (customary for accessory structures).
- E. If the home occupation is to be operated in an accessory structure on the same property the following conditions must be met:
  - 1. The property used for the home occupation must abut a commercial district on at least one side.
  - 2. The accessory structure must be installed according to all regular zoning and building code standards.
- F. No chemical, mechanical, or electrical equipment that creates odors, light emissions, noises, or interference in radio or television reception detectable outside the dwelling shall be permitted.
- G. Only vehicles used primarily as passenger vehicles (e.g. automobiles, vans, pickup trucks) shall be permitted in connection with the conduct of the home occupation.
- H. Visitors or patrons shall occupy a maximum of one (1) on-street parking space, all other patrons and visitors must utilize the private driveway and property.
- I. No outdoor storage shall be permitted.
- J. No home occupation shall be operated in such a manner as to cause a visual, audible, sensory or physical nuisance.
- K. Customary yard signs advertising the home occupation are allowed for any home occupation under the same guidelines as indicated in Section 100.59. Sandwich board signs are allowed only where home occupations abut a commercial zoning district on at least one side and must follow the regulations as provided in Section 100.59, Table 11.2.

- L. The home occupation must meet all of the requirements from other approving agencies including, but not limited to the Fire Marshal's office, Moore County Building Permits & Inspections, Moore County Environmental Health and other state licensing boards.
- M. The following home occupations are exempt from obtaining a permit:
  - a. artists, sculptors who are not selling to the public on the premises;
  - b. jewelry making and pottery with no sales on premises;
  - c. home offices with no client visits; and
  - d. telephone answering and message services.

**SR 6. Class A or B Mobile Home on Individual Lot**

- A. The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss white paint), wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- B. A continuous, permanent masonry foundation, such as brick, stone, stucco, split faced block (but not common concrete block), unpierced except for required ventilation and access, shall be installed under the mobile home.
- C. The tongue, axles, transporting lights and removable towing apparatus shall be removed subsequent to final placement.
- D. Installation shall be in accordance with North Carolina Department of Insurance Standards.

**SR 7. Mobile Home Parks**

Mobile Home Parks shall be constructed in conformance with the following design standards:

- |   |      |
|---|------|
| A. Minimum site area in acres   | 3    |
| B. Minimum number of Mobile Home Spaces   | 5    |
| C. Maximum number of Mobile Home Spaces per acre                                  | 7    |
| D. Minimum Lot and/or parcel width for site at front building line in linear feet | 100  |
| E. Minimum area per Mobile Home Space   |      |
| Class B Mobile Home (square feet)   | 4000 |
| Class A Mobile Home (square feet)   | 6000 |
| F. Minimum area per Mobile Home Space width                                       |      |
| Class B Mobile Home (linear feet)   | 45   |



Class A Mobile Home (linear feet)	60
G. Maximum number of Mobile Homes per Mobile Home Space	1
H. Minimum number of parking spaces per Mobile Home Space (located on each space)	2
I. Minimum number of landings/patios per Mobile Home Space (located on each space)	1
J. Minimum area of landing/patio per Mobile Home Space (square feet)	32
K. Hard surface walk required to connect each patio to parking space (minimum three (3) feet width)	Yes
L. Street paving required in conformance with City standards for minor streets	Yes
M. Maximum slope permitted on site	3:1
N. Maximum number of driveways connecting to streets (other than private street)	0
O. Maximum number of private street connections to street per Mobile Home Park	2
P. Minimum distance between private street connections to street (linear feet)	150
Q. Maximum length of dead end and/or cul-de-sac private street (linear feet)	800
R. Minimum turning circle (paved) diameter at end of each dead end and/or cul-de-sac private street (linear feet)	70
S. Mobile Home Park identification sign conforming to Sec. 100.59 required	Yes
T. Minimum separation between entrance/exit point of private street to street and nearest street intersection (linear feet)	150
U. Street light required at all private street intersections	Yes
V. Water supply and sewage disposal facilities required	Yes

W. Minimum open space required per Mobile Home Space (in acres)	0.04
X. Private street names required (subject to approval)	Yes
Y. Maximum number of Mobile Home Spaces with vehicular access from one-way private streets	20
Z. Garbage collection and disposal by owner/operator in accordance with applicable codes required	Yes
AA. Heating oil and/or gas tanks with foundation permitted	Yes
BB. Minimum capacity of heating fuel tanks (gallons)	150
CC. Wood burning heat sources permitted	Yes
DD. Screening of firewood required (no minimum height)	Yes
EE. Minimum separation between each unit (linear feet)	24
FF. Vehicle Speed Control devices required	Yes
GG. Number of accessory buildings per mobile home space	1
HH. Minimum separation of accessory buildings from other mobile home on same space and other accessory buildings (linear feet)	10
II. Minimum separation of accessory building from other mobile homes (linear feet)	20
JJ. All mobile homes meet HUD construction standards and bear HUD tag and/or data plate	Yes
KK. Towing apparatus removed from all mobile homes	Yes
LL. All mobile homes set in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous underpinning of a material generally accepted in the mobile home industry under the perimeter of each home, unpierced except of required ventilation and access.	Yes

**SR 8. Multi-Family Dwellings**

A. The basic minimum site area for a multi-family development shall be as follows:

R-20	25,000 square feet
R-10	14,000 square feet
RM-10	12,000 square feet
R-MH	9,000 square feet
R-HD	20,000 square feet

B. Minimum lot width shall be as follows:

R-20	115 feet
R-10	115 feet
R-MH	95 feet
R-HD	115 feet

C. Minimum yards for the site shall be as follows:

Front	30 feet
Sides	20 feet
Rear	25 feet

D. Maximum building height shall be 35 feet; maximum percent of lot coverage shall be 50; and minimum heating living space shall be 672 square feet.

E. Maximum density shall not exceed one (1) dwelling unit per 3,000 square feet of site area.

F. No multi-family dwellings or series of attached single-family, multi-family buildings or other such arrangements shall exceed a length of one hundred fifty (150) feet when measured along the longest axis of the building or series of attached units when placed in a theoretical straight alignment.

G. Maximum dwelling units.

1. No multi-family development shall contain more than sixteen (16) dwelling units unless the development shall have frontage along and direct primary access on a major or minor thoroughfare as shown on the Thoroughfare Plan.

2. Any multi-family development with more than sixteen (16) dwelling units shall meet the requirements of G(1) above and shall submit a certified traffic engineering report evaluating the capability of the adjoining street system to carry the traffic generated by the development.

H. An individual multi-family building, or a single series of attached dwelling units to be located on an individual lot shall be developed in accordance with the area, yard and height requirements of the district in which located the same as any other individual building on an

individual lot. The conveyance of ground space for single-family attached units or for common area or similar purposes shall not preclude development under this subsection. Such conveyances however shall be subject to the requirements of the subdivision provisions and may be subject to the North Carolina Unit Ownership Act.

I. For multi-family developments proposing more than one building on a lot, the following provisions shall apply:

1. Along each exterior property line or public street, a minimum front, rear and side yard setback as required by the district in which the development is located shall be established.

2. To determine building separation yard (or position of an individual building or series of attached units), an isosceles triangle (yard space triangle) shall be drawn from each building façade. Facades shall be designed on each building so that a minimum number, normally four, results. The base of the triangle shall be a line connecting the extreme ends of the façade (ignoring one story storage rooms and other one-story protrusions of one hundred (100) square feet or less, exterior stairways, and decks and its altitude shall be the length of the base line multiplied by a factor related to the height of the building as shown below:

<u>Number of stories</u>	<u>Altitude Factor</u>
1	0.4
2	0.5
3 or more	0.6

The isosceles triangle thus established shall not:

- a. Overlap any portion of any other building.
  - b. Overlap any other yard space triangle.
  - c. Extend across the property lines of the development.
- (3) In addition to the yard space triangle, in no case shall any building be closer than twenty (20) feet to any other building on the development. Furthermore, buildings shall not be arranged in straight rows oriented in such a way as to resemble rows of barracks.
- (4) All portions of every building shall be located within three hundred (300) feet of a public street that furnishes direct access to the property unless the fire chief determines that on site fire hydrants and service drives will offer adequate protection.
- (5) All main utility lines, meters, taps and other appurtenances, up to and including the meter for each individual unit, (but not including the service lines and other facilities extending service to each individual unit) shall be built to the same standard as required for subdivisions. All such facilities, together with an easement of sufficient width, shall be

conveyed to and/or dedicated to the city for public use and maintenance. All utilities shall be placed underground.

- (6) Each unit shall be individually metered for all utilities. Responsibility for the maintenance of common utility lines and/or facilities which have not been conveyed to the Town and/or dedicated for public use shall be the responsibility of the project owner, or in the case of unit ownership clearly established in the declaration, protective covenants and other bylaws.
- (7) All streets or access ways providing ingress and egress from the development to an existing street system in the R-10 or RM-10 zoning districts shall be classified as public and are required to use current street drainage standards and install curb and gutter. Additionally, a minimum of twenty (20) feet pavement width is required on all streets.
- (8) Storm drainage improvements shall be made in the same manner and under the same criteria as that established in the subdivision regulations.
- (9) Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drivers and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Concrete pads in conformance with the public works department's stationary container location standards shall be located beneath of and in the approach to each stationary sanitary container. Where single-family attached units make up the total development and are all located along a public street in a manner similar to a typical single-family development, the Public Works Director may approve an individual household pick up system.

## **SR 9. Planned Unit Developments**

- A. Planned unit development may be permitted through conditional zoning.
- B. Application for Planned Unit Developments shall be approved only if the following findings are made:
  - (1) That application of planned unit development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
  - (2) That application of planned unit development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible and environmentally sensitive design;
  - (3) That application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and

- (4) That application of planned unit development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the town.
- C. An approved Planned Unit Development's conditional zoning and the approved verified development plan shall govern all uses and development activities in a Planned Unit Development.
- D. Except as otherwise provided by this SR, a Planned Unit Developments shall be subject to all the applicable standards, procedures and regulations of the other parts of this ordinance.
- E. Minimum Size: No Planned Unit Developments shall be approved for a site of less than twenty (20) acres. The site must be contiguous property under unified ownership or control.
- F. USES: Uses permitted in a Planned Unit Developments shall be any use permitted in the Table of Permitted and Conditional Uses except those first listed in the "I" District, provided that uses to be in a Planned Unit Developments shall be stated in the Conditional Zoning description.
- G. Limitation on Uses: Non-residential uses shall not exceed fifteen percent (15%) of the total land area and at no time shall the cumulative amount of land development for non-residential purposes exceed the cumulative amount of land development for residential purposes. Non-residential does not include recreational and open spaces.
- H. Development Standards: Development in a Planned Unit Developments shall be exempt from the minimum required lot width, front yard, side yard and rear yard requirements of the Dimensional Standards relating to relationship of buildings to lots and access to streets provided that the following development standards are followed. The overall residential density limitation and residential building types of the corresponding general use district shall apply in a Planned Unit Developments provided that a density bonus which may involve a different residential development type may be permitted during the Planned Unit Developments approval process as provided for herein.
1. Lot Size: The exemption from the General and Dimensional Standards shall not apply in the following situations:
    - i. No lot for a single-family dwelling shall be less than the minimum lot size for a single-family dwelling in the zoning district in which the Planned Unit Developments is located. Where the zoning district permits attached and multi-family developments such uses are permitted subject to the Special Requirements for such developments.
  2. Vehicle Access:

- i. Primary vehicular access to office or commercial development shall not be through intervening residential development.
  - ii. Local streets shall be located and designed so that they do not encourage through access by traffic with origins and destinations outside of the development.
3. Pedestrian Access: Planned Unit Developments shall be designed and developed and uses so arranged to promote pedestrian access within the development.
4. Non-Residential Areas: Non-Residential areas in Planned Unit Developments shall be designed and located to principally serve the residents of the Planned Unit Developments and the immediate surrounding area.
5. Boundary Treatment: The scale and setbacks of development in a Planned Unit Developments within one hundred and fifty (150) feet of the perimeter of the Planned Unit Developments shall be in harmony with development on adjacent lands.
6. Environmentally Sensitive Areas: One of the principal purposes of the Planned Unit Developments procedure is to protect environmentally sensitive areas through the uses of innovative arrangement of buildings and spaces. It is the intent of the Planned Unit Developments process that significant consideration in planning and design of Planned Unit Developments shall be given to the following elements such as but not limited to:
  - i. Floodway and floodway fringe areas
  - ii. Steep slopes and knolls
  - iii. Wetlands
  - iv. Water supply watersheds and recharge areas
  - v. Rock outcrops
  - vi. Soil erosion and storm water management
  - vii. Tree and foliage preservation
  - viii. Habitat for threatened or endangered species
  - ix. Areas of historical, archaeological or architectural significance
  - x. Useable open space; recreation area

In any case where the Board of Commissioners finds in its opinion that the Planned Unit Developments provides for significant protection or enhancement of any one or more of the above elements, or a similar element as determined by the Board, the Board may award a bonus of up to ten (10) percent increase in residential dwelling units for a Planned Unit Developments. The determination by the Board of the significant protection or enhancement of a particular element shall be based upon a comparison between the type of development that could be placed on the property under the current zoning and other regulations and the proposed development scheme for the Planned Unit Developments.

7. Unified Development Plan: The application for a Planned Unit Development as part of Conditional Zoning shall be accompanied by a unified development plan in the form of a site-specific vesting plan.
8. Phased Development: A Planned Unit Developments may be developed in phases in the same manner as a subdivision

**SR 10. Shelters for the Homeless**

- A. The minimum lot size shall be 15,000 square feet.
- B. No facility shall be located within one-half mile (2,640 feet) of any existing homeless shelter, as measured from the nearest property line of the lot on which the proposed homeless shelter is to be located to the nearest lot line of an existing homeless shelter.
- C. Maximum occupancy shall be in accordance with the North Carolina State Building Code or not more than one (1) person per each five hundred (500) square feet of lot area, whichever is less.
- D. Continuous on-site supervision must be maintained during all hours of operation.

**SR 11. Accessory Dwelling Units, Attached**

- A. The location, setbacks and height shall be in accordance with the standards for the district in which located.

**SR 12. Accessory Uses and Structures**

A. Residential

1. Location of Garages.

On lots less than 40,000 square feet, garages and carports must be located behind the front line of the house side that faces a public or private road. The front line is determined to be a line as drawn from corner to corner of the front of the house, not inclusive of protruding entryways or other architectural features. If the property fronts more than one road, the front shall be the traditional front of the house, or the side that faces the most heavily travelled road.

For lots 40,000 square feet or greater and located in the Residential Agriculture (RA-40) zone, the garage or carport must be set back no less than one hundred (100') feet from the front property line.

2. Location of all other accessory structures (i.e. sheds, workshops, greenhouses, etc.), excluding garages and carports, must be located in the rear yard, not in any side or front yard.



3. The structure must be used primarily as a garage or carport as permitted.
4. Setbacks; rear and side yards.
  - a. Not less than the principal building setback for the district, except as provided under “b” below.
  - b. Structures or buildings not exceeding fifteen (15) feet in height shall be set back not less than ten (10) feet from side and rear property lines and pursuant to Article VII, Buffer yards/Landscaping Requirements. Minimum corner lot side yard setbacks for the district shall apply for all corner lots. Minimum front yard setbacks shall apply for all double frontage lots.
5. Setback from principal building. Must be at least eight (8) feet from the principal structure.
6. Height. Shall not exceed the height of the existing principal building or district maximum height whichever is less.
7. Gross Floor Area

The total gross floor area of any single accessory building shall be no greater than fifty (50) percent of the building footprint area of the principal building. The total building footprint area of all accessory buildings on a lot shall be no greater than fifty (50) percent of the gross floor area of the principal building.

**B. Non-Residential**

1. The location setbacks and height shall be in accordance with the standards for the district in which located.

**SR 13. Caretaker Dwellings**

- A. No more than one (1) caretaker dwelling shall be permitted for any one (1) lot.

**SR 14. Migrant Labor Housing**

- A. Minimum lot size shall be two (2) acres. An additional 2,000 square feet of land shall be required for each worker in excess of twenty (20) people.
- B. The minimum street setback shall be one hundred (100) feet.
- C. The minimum interior side and rear yard setback shall be fifty (50) feet.
- D. No more than ten (10) people shall be housed in any one (1) room or compartment for sleeping purposes. Rooms or compartments for sleeping shall contain a minimum of thirty-nine (39)

square feet of floor area for each person. Where stricter, applicable state or federal law shall govern.

**SR 15. Satellite Dishes**

- A. Satellite dish may be located in rear yards or on the rear portion of the roof of a principal building.
- B. Satellite dishes may be located in a side yard or front yard if a variance is granted by the Board of Adjustment. In no case may a satellite dish be located in a front yard. No satellite dish can be constructed that would cause a sight obstruction.
- C. A satellite television antenna shall not exceed twelve (12) feet in diameter and a ground mount satellite television antenna shall not exceed twenty (20) feet in height, including any platform or structure upon which said antenna is mounted or affixed.
- D. There shall be no more than one (1) dish per dwelling unit in the case of residential development.

**SR 16. Swimming Pools**

- A. Pools permanently or semi-permanently constructed below grade and which exceed forty (40) square feet in water surface area shall be protected by a five (5) foot or higher fence containing a latching gate to keep children and animals from having unsupervised access.

**SR 17. Amusement or Water Parks; Batting Cages; Go-Cart Tracks**

- A. Minimum lot size for all developments shall be three (3) acres.
- B. No principal buildings or structures shall be located within fifty (50) feet of any property line.
- C. Security fencing, a minimum of six (6) feet in height, shall be provided along the entire boundary of park activities.
- D. No amusement equipment, machinery or mechanical device of any kind may be operated within two hundred (200) feet of any residentially zoned property.

**SR 18. Athletic Fields, Clubs or Lodges, Country Clubs with Golf Courses, Golf Courses, Miniature, etc.**

- A. There shall be a fifty (50) foot minimum setback between clubhouses, swimming Pools, lighted tennis courts, athletic fields and other activity areas and adjacent residentially zoned property.
- B. Outdoor swimming pools shall be protected by a fence, or equal enclosure, a

Minimum of four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

**SR 19. Shooting Range, Indoor**

- A. The facility shall be designed to absorb sound to the maximum extent feasible.

**SR 20. Churches, Religious Institutions, Retreat Centers, School Administrative Facilities, Schools and Day Care Adult/Child (6 or more)**

- A. In residential districts such facilities shall be located on collector or thoroughfare streets.
- B. Churches, synagogues, mosques, temples and other religious uses are prohibited within the DROD but allowed in the remainder of the Central Business District subject to the provision of adequate available parking.

**SR 21. Major or Minor Repair Facilities (including Major Automobile Repair Services, Minor Automobile Repair Services, Heavy Equipment Repairs, Light Equipment Repairs, Refrigerator or Large Appliance Repairs)**

- A. All wrecked or damaged motor vehicles and parts shall be screened by an opaque fence of uniform construction, a minimum of six (6) feet in height, and with a buffer yard of greater intensity as required by the buffer yard regulation so as not to be visible from adjoining property lines and street rights-of-way.
- B. All vehicles on the premises for repair shall be stored at the rear of the principal structure.
- C. No vehicle shall be stored on the premises for more than fifteen (15) days.
- D. There shall be no exterior storage of items other than vehicles. No vehicle shall be stored within ten (10) feet of any street right-of-way.
- E. There shall be no sale of vehicles.
- F. Rental or utility trailers, cars and trucks shall be permitted as accessory uses provided that all units in excess of four (4) shall be screened from adjoining street rights-of-way and property lines by an opaque fence of uniform construction, a minimum of six (6) feet in height, and with a buffer yard of greater intensity as required by the buffer yard regulations.
- G. Outdoor displays of products such as tires, oil, wiper blades, or other similar products shall be permitted provided they are within ten (10) feet of the principal structure and outside required buffer yards.
- H. All services except fuel sales and services related to fuel sales, such as window washing and oil checks, shall be performed within a completely enclosed building.

**SR 22. Automobile Storage; Automobile Towing & Storage; Automobile Wrecking or Junk Yards; Salvage Yards, Scrap Processing; Refuse and Raw Material Hauling, etc.**

- A. Any area covered by six hundred (600) square feet or more of scrap material or seven (7) or more junk vehicles shall qualify as a use of this type.
- B. A minimum of ten (10) acres is required for such facilities.
- C. A solid fence or wall not less than eight (8) feet in height shall be placed and maintained around all setback boundaries; an open space setback of at least ten (10) feet shall be maintained around the enclosure; such area shall not be used for storage and shall be grassed and maintained in natural vegetation.
- D. Weeds and grasses shall be controlled within the facility.
- E. The height of items inside the facility shall not exceed the height of the barrier fence.
- F. Items shall not be stored closer than one thousand (1000) feet to any adjoining residentially zoned property.
- G. Storm water runoff and erosion control measures shall be installed around the site in accordance with State standards.
- H. All unmounted tires (200 maximum) shall be stored in an enclosed building to prevent the accumulation of storm water within the well of the tire.
- I. The owner understands that he/she will be financially responsible for any contamination of the site and/or its environs.

**SR 23. Car Washes; Truck Washes**

- A. No such facility shall be operated within three hundred (300) feet of a residential district.

**SR 24. Kennels; Pet Grooming; Veterinary Service**

- A. The facility shall be designed to absorb sound to the maximum extent feasible.
- B. Outdoor exercise areas shall be located a minimum of one hundred (100) feet from any adjoining residential property line.

**SR 25. Recreational Vehicle Parks or Campsites**

- A. Each space shall consist of a minimum of 2,000 square feet and shall be designated on the ground by permanent markers or monuments.

- B. All structures, buildings and sewage facilities shall meet the setback requirements for the district in which they are located.
- C. The park shall have all weather paved or gravel roads that directly abut all spaces. All road rights-of-way shall have a minimum width of forty (40) feet with a minimum paved width of twenty (20) feet.
- D. An all-weather surface area with sufficient dimensions to accommodate at least one (1) automobile and camping vehicle shall be constructed within each space.
- E. These shall be a minimum distance of eighteen (18) feet between each travel trailer and structure.
- F. No space shall have direct vehicular access to public streets which do not exclusively serve the park.
- G. The park shall be developed with proper drainage ditches. All banks shall be sloped and seeded.
- H. Cul-de-sacs or dead-end roads shall not exceed 1,000 feet in length. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum right-of-way diameter of eighty (80) feet.
- I. When the park has more than one (1) direct access to a public road, each entrance shall be no less than three hundred (300) feet apart or no closer than three hundred (300) feet to a public road intersection unless unusual site conditions demand otherwise.
- J. Utilities
  - 1. The installation, alteration, or use of all utilities including, but not limited to, electrical service, plumbing fixtures, and sewage disposal systems shall conform to all applicable codes.
  - 2. Each park shall obtain water from a municipal water supply when available and when, unavailable, from a source approved by the Moore County Health Department. The water supply and pressure shall be adequate for the park requirements. Areas around faucets or drinking fountains shall be properly drained.
  - 3. Each park shall have a central structure or structures that will provide separate toilet and bathing facilities for both sexes. The minimum number of facilities per sex to be provided shall follow the schedule below:

Toilets:	1 per 25 spaces
Lavatories:	1 per 25 spaces
Showers:	1 per 25 spaces

For the purpose of this section, at least one of each of the above listed facilities shall be provided per sex for the first campsite of recreational vehicle space.

All toilet, shower, lavatory and laundry facilities shall be provided and maintained in a clean, sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible to all persons and conveniently located.

4. Each park shall be provided with an approved sewage disposal system either by connection to a public sewer or a septic tank constructed in compliance with the regulations of the Moore County Health Department. All sewage wastes from the park, including waste from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets, and water using appliances not herein mentioned, shall be piped into the park's sewage disposal system.

#### K. Solid Waste Disposal

1. The park owner is responsible for solid waste collection. All refuse shall be collected at least twice weekly.
2. All refuse shall be stored in conveniently located, leak proof, rodent proof containers with tight fitting lids. One (1) such can with a capacity of at least twenty (20) gallons shall be provided for every two (2) spaces. Garbage cans shall be located no farther than one hundred (100) feet from any space.
3. Racks or concrete platforms shall be provided on which to store containers. Racks or platforms shall be so designed as to prevent tipping and to minimize spillage.

- L. All spaces shall be located on sites that are not susceptible to flooding. The spaces shall be graded to prevent any water from ponding or accumulating within the park. Each space shall be properly graded to obtain a reasonably flat site and to provide adequate drainage away from the space.

- M. Insect and rodent control measures to safeguard the public health shall be used in the park.

- N. Common area recreation areas shall be provided at a ratio of three hundred (300) square feet per space. No common recreation area shall be less than 3,000 square feet. No common recreation area shall be located in a required buffer yard. At least eighty (80) percent of the required recreation area must be level, well drained ground usable for common recreation activities. Land that is swampy, extremely low, or wooded will not be classified as usable recreation space.

- O. The park may contain a retail sales counter or coin operated machines for the park residents' use only, provided they are enclosed within a structure and there is no exterior advertising.

- P. Permanent sleeping quarters for guests shall not be permitted within the park. No person or accommodation shall remain in the park longer than thirty (30) days.
- Q. It shall be unlawful for a person to park or store a manufactured dwelling in a Recreational Vehicle Park, except that one (1) mobile home may be located within the park for exclusive use by the park manager or operator. This mobile home shall be located as shown on the site plan.

**SR 26. Tourist Homes; Bed and Breakfast Inns**

- A. The maximum number of guest bedrooms shall be six (6).
- B. The inn shall be operated by a resident manager.
- C. The use shall be located in a structure, which was originally constructed as a dwelling.
- D. The use shall contain only one (1) kitchen facility. Meals served on the premises shall be only for overnight guests and residents of the facility.
- E. The use of such a facility by any one patron shall be limited to no more than fifteen (15) days per sixty (60) day period.

**SR 27. Flea Markets, Outdoors**

- A. No building, structure or sales area shall be located in any required setback area.
- B. No more than twenty-five (25) percent of the stalls or sales areas shall be used for the sale of goods at retail by businesses or individuals who are generally or traditionally engaged in retail trade.
- C. Off street parking shall be provided as required for retail sales (not otherwise classified).

**SR 28. Airports or Air Transportation Facilities**

- A. The minimum area shall be fifty (50) acres for Basic Utility Stage 1 airport with two thousand (2000) foot runway.

**SR 29. Demolition Debris Landfill**

- A. Setback: There shall be fifty (50) foot minimum distance from any property line.
- B. Use Separation: There shall be a three hundred (300) foot minimum separation from any residence.

- C. Access: Access to the landfill shall be controlled with gates, chains, fences, ditches and/or trees to prevent unregulated dumping.
- D. Dust: All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
- E. Operation: No infilling is permitted in any flood hazard area. No filling is permitted I minor drainage ways unless the drainage has been piped in accordance with approved plans. No filling is permitted in utility easements.
- F. Signs: An information board sign shall be posted and maintained at the entrance, listing the name and phone number of the current operator, the types of material accepted and the hours of operation.

**SR 30. Solid Waste Disposal (nonhazardous)**

- A. An operations and rehabilitation plan shall be submitted for approval prior to permitting.
- B. Direct illumination resulting from the operation shall not fall upon any land not covered by the application.
- C. Equivalent sound levels at the boundaries of the fill site shall not exceed the following standards:
  - between 7:00 a.m. and 7:00 p.m. 60 DBA
  - between 7:00 p.m. and 7:00 a.m. 55 DBA
- D. The Rehabilitation Plan shall be referred to the Soil and Water Conservation District for review and recommendation, in particular regarding the landscape material specified, the planting and maintenance proposed to insure continuous growth and development, and the acceptability of the proposals for the handling of lakes, ponds, etc.
- E. The permanent roads, defined as those to be used in excess of one (1) year, within the fill site shall be surfaced with a dust free material, such as soil cement, bituminous concrete or Portland Cement concrete.
- F. Roads other than permanent roads shall be treated with dust inhibitors, to be specified in the Operations Plan, which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action. Properly operated water wagons are an acceptable means of dust inhibition.
- G. Where the proposed fill shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building or public land, a security fence at least six (6) feet high shall be installed.



- H. The operations plan and the rehabilitation plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consistent with good practices and so that rehabilitation proceeds in concert with filling.

**SR 31. Ammunition, Small Arms; Arms and Weapons**

Reserved

**SR 32. Asphalt Plant**

- A. Any asphalt plant operations shall be located on a minimum area of ten (10) acres and all plant operations shall be located at least fifty (50) feet from any property line.
- B. Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of the operation.
- C. Rehabilitation:
  - 1. Within one (1) year after the cessation of production, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
  - 2. The site shall be drained to prevent the accumulation of standing water, and the channel of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public drainage ways, nor to appreciably increase the humidity of any natural water course, or to occlude any existing drainage course.
- D. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
- E. Access:
  - 1. Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust free manner.
  - 2. Access roads shall be located no closer than fifteen (15) feet to any property line other than a railroad right-of-way line.
  - 3. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designated to minimize impacts on residential areas, school or other uses negatively affected by truck traffic.

**SR 33. Mining and Quarrying**

- A. Setback:

1. The edges of any pit where a mining operation is taking place, any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial use operated in conjunction with the mine or quarry shall be located at least fifty (50) feet from any property line.
  2. Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.
- B. Security fencing, a minimum of six (6) feet in height, shall be provided around the perimeter of both existing and abandoned operations.
- C. Rehabilitation:
1. Within one (1) year after the cessation of production at all mining operations, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
  2. Except in a case where redevelopment for another permitted use is in progress on the site of an abandoned extraction operation, all excavations shall be graded to reduce the surface to gently rolling topography in substantial conformity to the land area immediately surrounding, and shall be planted with a cover of sod, trees, shrubs, legumes or grasses which will minimize erosion due to wind or rainfall.
- D. All operations involving blasting discernable beyond the external property line of a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m.
- E. All unpaved storage areas shall be maintained in a manner, which prevents dust from adversely impacting adjacent properties.
- F. Access:
1. Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust free manner.
  2. Access roads shall be located no closer than fifteen (15) feet to any property line other than a railroad right-of-way line.
  3. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential area, schools or other uses negatively affected by truck traffic. Such routes shall be adhered to.

**SR 34. Petroleum and Related Products (Wholesale or Manufacturing)**

- A. Setback:

1. Storage tanks protected by either an attached extinguishing system approved by the Fire Marshal, or an approved floating roof, shall not be located closer to an exterior property line than a distance of either the diameter or height of the tank, except that such distance need not exceed one hundred and twenty (120) feet.
  2. Storage tanks not equipped as indicated in one (1) above shall not be located closer to an exterior property line than a distance equal to one and one-half (1½) times the greater dimension of either the diameter or height of the tank, except that such distance need not exceed one hundred and seventy-five (175) feet.
- B. Above ground storage tanks and loading facilities shall be located a minimum of five hundred (500) feet from any existing residence or residentially zoned property.
- C. Gravel or paved roadways shall be provided to all storage tanks.
- D. Security fencing, a minimum of six (6) feet in height, shall be provided along the entire boundary of such facilities.
- E. Dikes:
1. Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways or drainage ways. The volumetric capacity of the dike area shall not be less than the capacity of the largest tank within the dike area.
- Dikes or retaining wall shall be of earth, steel, concrete or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head. Earthen dikes three (3) feet or more in height shall have a flat section at the top not less than two (2) feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than six (6) feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, drums or barrels shall be permitted within the dike area.
2. Where provision is made for draining rainwater from dike areas, such drains shall normally be kept closed and shall be designed so that when in use they will not permit flammable liquids to enter natural watercourses, public sewers or public drains. Where pumps control drainage from the dike area, they shall not be self-starting.
- F. Tank Maintenance:
- G. All storage facilities shall comply with the latest edition of the “Flammable and Combustible Liquids Code, NEPA 30” of the National Fire Protection Association.

**SR 35. Adult Oriented Business**

- A. No such business shall locate within one thousand (1,000) feet of any other Adult Oriented Business, as measured in a straight line from property line to property line.
- B. No Adult Oriented Business shall be located within one thousand (1,000) feet of a church, public or private elementary or secondary school, library, child day care or nursery school, public park, residentially zoned or residentially used property, or any establishment with an on-premise ABC license, as measured in a straight line from property line to property line.
- C. The gross floor area of any Adult Oriented Business shall not exceed three thousand (3,000) square feet and all business-related activity shall be conducted in a building.
- D. Except for an adult motel, no Adult Oriented Business may have sleeping quarters.
- E. There shall not be more than one (1) Adult Oriented Business in the same building, structure or portion thereof. No other principal or accessory use may occupy the same building, structure, property or portion thereof with any Adult Oriented Business.
- F. Except for signs as may be permitted by Article IX of this Ordinance, no printed material, slide, video, photograph, written text, live show or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.
- G. No enclosed or underground parking shall be permitted.

**SR 36. Temporary Events and Structures**

The Administrator may issue a permit for temporary events and structures provided the Administrator makes the following affirmative determinations:

- A. The duration of the event will be for fourteen (14) days or less.
- B. The location for the event has not had more than two (2) temporary events in the past twelve (12) months and no events in the past thirty (30) days.
- C. The owner of the property, or his agent, has authorized in writing for the event to be held on the property.
- D. The application for the permit is made at least five (5) working days prior to the event.
- E. That ample off-street parking and toilet facilities are available.
- F. That arrangements are made for suitable garbage disposal and site cleanup.

- G. That activities within one thousand (1,000) feet of residences not on the site are to be conducted in such a manner as to not create noise that will disturb the occupants of residences and shall cease operations by 10:00 p.m.
- H. Itinerant merchants shall not be permitted under this SR but shall be subject to the itinerant merchant provision of the Town Code.
- I. The Administrator shall determine whether the proposed event is appropriate within a particular zoning district based upon the function of the event and the permitted uses within the zoning districts.

**SR 37. Wireless Telecommunication Facilities**

**Section 1. Introduction, Intent, Applicability, Application, Approval Process and Timely Response**

**A. Introduction**

Telecommunications infrastructure covered under this Supplemental Regulation 37 (SR 37) includes supporting structures (towers, utility poles or buildings) and the antennae, equipment cabinets and related equipment. Wherever possible the definitions found in Section 1. D. below follow the N.C. General Statutes.

“Wireless Telecommunications Facilities” include traditional cell towers (lattice type structural steel and monopoles, for example. Unlike the definition of “Wireless Facility” in N.C.G.S 160D-931, in this ordinance Wireless Telecommunications Facilities does not include small wireless facilities or micro wireless facilities as defined in the same statute and in Section 1. E.

The Table of Permitted Uses lists which kinds of wireless facilities are permitted in which zoning districts.

Notice and/or a permit are required to encroach on Town rights-of-way. Agreements are required to attach antennae to Town properties. See Code of Ordinances § 52 Work Within Public Rights-of-Way; Utilities; Encroachments.

**B. Intent**

The Board of Commissioners of the Town of Carthage intend to achieve the following goals with this Ordinance.

1. Provide applicants with the appropriate information needed to minimize the impacts of Wireless Telecommunications Facilities on surrounding properties by establishing standards for location, structural integrity and compatibility.
2. Encourage the location and collocation of equipment on existing structures.
3. Minimize the visual, aesthetic, and public safety impacts and effects upon the historic and natural environment and to reduce the need for additional antenna support structures.
4. Encourage coordination between the Wireless Telecommunications Facilities developers and providers of Wireless Telecommunications Facilities services.

5. Establish predictable and balanced codes governing the construction and location of wireless communications facilities, within the confines of permissible local regulations.
6. Establish technical and land use review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period.
7. Protect the character of the town while meeting the needs of its citizens to enjoy the benefits of wireless communications services.
8. Ensure compatibility with the goals and objectives of the Town of Carthage Land Use Plan.
9. Follow the N.C. General Statutes and facilitate the creation of Small / Micro Wireless Facilities.

**C. Applicability and Priority**

Except as provided in D. below (Exempt Installations), the Ordinance standards within SR 37 shall apply to development activities including installation, construction, or modification of the wireless communications facilities listed in Table 1 below. The facilities are listed in the order of preference to meet the Town’s intent.

*Table 1. Wireless Facility Types and Preferences*

<b>Type of Wireless Telecommunications Facilities or Small / Micro Wireless Cell</b>
1. Public safety antenna support structures
2. Replacement of existing antenna support structures
3. Concealed (stealth) wireless communications facilities
4. Collocated small and micro wireless facilities
5. All other Collocations (not including substantial modifications, nor small / micro wireless facilities)
6. New wireless support structures (including substantial modifications and wireless support structures for small / micro wireless facilities.)
7. Antenna support structures, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission

**D. Exempt Installations**

The following are exempt from the provisions of **SR 37** (Wireless Telecommunications Facilities) but must comply with any other provisions contained in Town of Carthage Development Ordinance.

1. Amateur radio station antennas.
2. Satellite earth stations that are one (1) meter (39.37 inches) or less in diameter and two (2) meters (78.74 inches) or less and not greater than thirty-five (35) feet above ground level.
3. A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government except that such facility must comply with all federal and state requirements. No wireless communication facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.
4. A town-owned wireless communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.

5. A temporary, commercial wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government except that such facility must comply with all federal and state requirements. The wireless telecommunications facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency, or determination of public necessity by the town. This provision may be extended in additional three (3) month increments by the Board of Commissioners.
6. Routine maintenance. See also section 2. J.
7. Permits may be issued for up to one week for temporary facilities needed in conjunction with scheduled special events at specific locales that are likely to generate a need for additional capacity at the event that is expected to exceed existing installed capacity. A maximum of four (4) consecutive one-week permits may be issued by the Ordinance Administrator or his/her agent(s) for a temporary facility. Temporary facilities requiring a temporary permit for longer than four weeks must receive approval from the Carthage Board of Commissioners.

## **E. Definitions**

1. Antenna. Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
2. Antenna Element Replacement shall mean the replacement of any part or all an antenna or antenna array with a model of the same manufacturer and model type or close specification.
3. Applicable Codes. The N.C. State Building Code uniform fire, building, electrical, plumbing or mechanical codes adopted by a recognized national code organization together with State, Moore County or Town of Carthage amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.
4. Application. A request that is submitted by an applicant to the town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, including town utility poles, or a wireless support structure.
5. Base Station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.
6. Collocation. The placement, installation, maintenance, modification, operation or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities.
7. Communications facility. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.
8. Communications service. Cable service as defined in 47 U.S.C. § 522(6) (The one-way transmission to subscribers of video programming, or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service), and information service as defined in 47 U.S.C. § 153(24) (The term “information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making

available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of telecommunications system or the management of a telecommunications service), and telecommunications service as defined in 47 U.S.C. § 153(53) (The term “telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.), or wireless services.

9. Eligible Facilities Request. A request for a modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
10. Equipment Compound. An area surrounding or near the base of a wireless support structure within which a wireless facility is located.
11. Expansion of an Existing Antenna Array shall mean the addition of an antenna or antenna array with a new manufacturer and/or model type and/or increases the bandwidth of the antenna or antenna array.
12. Fall Zone. The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
13. Micro wireless facility. A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.
14. Routine Maintenance. Activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with wireless facilities of the same size.
15. Search Ring. The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
16. Small Wireless Facility. A wireless facility that meets both of the following qualifications:
  - (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
  - (2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, and cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.
17. Substantial Modification. The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below
  - (i). Increasing the existing vertical height of the structure by the greater of (a) more than ten percent (10%) or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
  - (ii) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support



structure that protrudes horizontally from the edge of the wireless support structure the greater of (a) more than 20 feet or (b) more than the width of the wireless support structure at the level of the appurtenance.

(iii.) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

18. Town right-of-way. A right-of-way owned, leased, or operated by a town, including any public street or alley that is not a part of the State highway system.
19. Town utility pole. A pole owned by a town in the town right-of-way that provides lighting, traffic control, or a similar function.
20. Utility pole. A structure that is designed for and used to carry lines, cables, wires, lighting facilities or small wireless facilities for telephone, cable television, or electricity, or to provide lighting or wireless services.
21. Water tower. A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.
22. Wireless telecommunication facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term shall not include any of the following: (i) The structure or improvements on, under, within, or adjacent to which the equipment is collocated. (ii) Wireless backhaul facilities. (iii) Coaxial or fiber optic cable that is between wireless structures or utility poles or town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. This definition does not include small and micro wireless facilities.
23. Wireless Infrastructure Provider. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.
24. Wireless Services. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.
25. Wireless Services Provider. A person who provides wireless services.
26. Wireless support structure. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole, including town utility poles are not a wireless support structure.

#### **F. General Application Requirements for ALL Facilities Regulated Under SR 37**

The items listed in this section are required for submittal of all applications as deemed appropriate by the Zoning Administrator.

1. Proof that a property and/or antenna support structure owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.
2. For all applications, the applicant shall provide a statement as to all the potential visual and aesthetic impacts of the proposed facility on all adjacent residential and Residential Historic District zoning districts.
3. Compliance letter from the State Historic Preservation Office, if applicable.

4. Certification from the applicant that it complies with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and all other federal statutory and regulatory requirements relating to radio frequency interference.
5. Completed checklist demonstrating compliance with the National Environmental Policy Act (NEPA), if applicable. If the United States Fish and Wildlife Service require the applicant to submit any information to them concerning the proposed wireless communications facility, the applicant shall also furnish a copy of any material submitted to the United States Fish and Wildlife Service to the County as part of the application package.
6. If the proposed facility is subject to FAA regulation, then prior to issuance of a building permit, a copy of any such FAA approval.
7. Proof that the proposed facility meets the N.C. State Building Code and any other applicable codes.

### **G. Additional Submittal Requirements for All Freestanding Wireless Telecommunications Facilities or Substantial Modifications**

In addition to those requirements found in this section the following specific information must be submitted for all Wireless Telecommunications Facilities (non-concealed and concealed), Substantial Modifications and Collocations not meeting the Section 6 Exceptions.

1. Certification furnished by a Registered Professional Engineer licensed in the State of North Carolina, that the facility has sufficient structural integrity to accommodate the required number of proposed collocations.
2. A written statement by a Registered Professional Engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility, if applicable.
3. Identification of the intended service providers of the facility, if known.
4. Master Site Plan including fall zone radius labeled as a NO BUILD ZONE.
5. Proposed maximum height of the proposed facility, including measurement of the base the antenna support structure, less the lightning rod.
6. The applicant shall provide a visual impact study including, but not limited to simulated photographic evidence of the proposed facility's appearance from all public and private roadways, homes, businesses, and institutions, parks and designated historic structures located within one-half mile of the center point of the proposed tower site including the facility types the applicant has considered and the impact on adjacent properties including:
  - i. Overall height
  - ii. Configuration
  - iii. Physical location
  - iv. Mass and scale
  - v. Materials and color
  - vi. Nighttime illumination
  - vii. Architectural design
7. Three (3) sets (24" x 36") of signed and sealed site plans, including antenna support structure elevations.

8. A report, map and supporting technical data demonstrating the search ring and that any proposed facility cannot be replaced by an alternative, higher priority configuration such as antenna attachments, collocations, including all potentially useable utility poles and other elevated structures. The report regarding the adequacy of alternative existing facilities or the mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing wireless communications facility could accommodate the applicant's proposed facility shall demonstrate any of the following:
  - i. No alternative antenna configurations are acceptable.
  - ii. No existing facility (any wireless communications facility utility poles, other elevated structures, etc.) are acceptable alternatives to a new facility.
  - iii. No existing wireless telecommunications facilities located within the geographic search ring meet the applicant's engineering requirements, and why.
  - iv. Existing wireless telecommunications facilities are not of sufficient height or design strength to meet the applicant's engineering requirements, and cannot be increased in height.
  - v. Existing wireless telecommunications facilities do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
  - vi. Other limiting factors that render existing wireless telecommunications facilities unsuitable.
9. Technical data included 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 with the report, regarding service gaps or service expansions that are addressed by the proposed facility, and accompanying maps and calculations demonstrating the need for the proposed facility. [Table 1.]

#### **H. Additional Requirements for Any Facility Not Meeting the Section 6 Collocation Exceptions.**

This section lists requirements for collocations not meeting Section 6 and new Wireless Telecommunications Facilities or a Substantial Modification, including any repair or replacement of an existing antenna or antenna array on a Wireless Telecommunications Facilities that changes the mechanical specifications and/or that increases the number and/or size of feed lines and/or equipment cabinets of an existing Wireless Telecommunications Facilities.

1. A signed statement from a qualified person, together with their qualifications, shall be included that certifies radio frequency emissions from the antenna array(s) comply with current FCC standards. The statement shall also certify that both individually and cumulatively, and with any other existing facilities located on or immediately adjacent to the proposed facility complies with current FCC standards.
2. In the case of an application for collocated telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with governmental facilities (including but not limited to county and municipal public safety) communications equipment and will implement appropriate measures to prevent such interferences.

**I. Schedule for Permit Review**

1. Schedule (Sometimes also called a “Shot Clock”.)

<b>Facility Requested</b>	<b>Time to Deem Application Complete (days)</b>	<b>Time to Decision After Application is Complete (days)</b>	<b>Total Time to Decide (days)</b>
Collocation	45	45	90
Small / micro wireless facility Collocation	30	45	75
New WCF, Substantial Modification or small/micro wireless facility (not a collocation)	90	150	150

**J.** Section 100.55, the Table of Permitted Uses and Conditional Uses shall identify the type of permit required by zoning district. All complete applications shall follow the procedural requirements of the Development Ordinance subject to the following exceptions.

- i. A request for Conditional Zoning will automatically be placed on the agenda for the Board of Commissioners after consideration by the Planning Board such that the 150-day shot clock may be satisfied.
- ii. A permit for a Permitted Use may be granted without final presentation to the Board of Commissioners to meet a shot clock.

**K. Payment for Technical Assistance.**

(1) For Small Wireless Facilities Under Section 6: The town may require a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the actual, direct and reasonable administrative costs incurred for review, processing and decision on the application.

(2) For Substantial Modifications or New Wireless Support Structures, the town has established a fee in its fee schedule for new or amended applications. The minimum amount(s) required shall be as set forth in the town’s Schedule of Fees. Any unexpended amount remaining after final inspection and issuance of a Certificate of Completion shall be returned to the applicant upon written request. If required, technical assistance fees must be paid before an application is deemed to be complete.

(3) For Collocations Other than Section 6: The town may require a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the actual, direct and reasonable administrative costs incurred for review, processing and decision on the application.

**Section 2. General Development Standards for All WCF**

**A. Equipment cabinets**

- 1. Cabinets shall not be visible from public views.
- 2. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

**B. Generators**

1. Generators may not be used as a primary electrical power source.
2. Backup generators shall only be operated during power outages and for testing and maintenance purposes.
3. All generators used for wireless communications purposes under this Article shall control the noise level by use of a silencer or other device that will reduce the noise level to no more than 70db.
4. Testing and maintenance shall only take place on weekdays between the hours of 8:30am and 4:30pm.
5. Generators may be used for temporary power prior to receipt of Certificate of Occupancy and not to exceed thirty (30) days.

### **C. Fencing**

1. All equipment compounds shall be enclosed with a six (6) foot high vinyl coated (vinyl color to be black, brown, or green) chain link fence with earth tone colored privacy slats, a brick or other masonry-type wall, or wooden stockade fence in all zoning districts except the Industrial (I) zoning district which shall be enclosed within a security fence consisting of chain-link with opaque stripping at least eight (8) feet in height topped with barbed wire.

2. Maintenance of fencing or wall shall be the responsibility of the tower owner for which the fence or wall is required. Fencing or wall shall be maintained in good condition always until all components within the fenced or walled area have been removed and properly abandoned per Section 2.I. (Abandonment).

### **D. Access**

1. Access to the Wireless Telecommunications Facilities equipment compound shall be graded and stoned in a manner that will allow access by police and fire/rescue units.

2. The applicant shall prominently display and maintain an assigned address on a post at the driveway intersection.

### **E. Signage**

1. Attaching commercial messages for off-site and on-site advertising shall be prohibited.

2. The only signage that is permitted upon a non-concealed antenna support structure, equipment cabinet, or fence shall be informational, safety-based, 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 (if applicable); and (6) signage appropriate to warn the general public as to the use of the facility for radiofrequency transmissions. The total size of all signs can be no more than thirty-two (32) square feet; No single sign can exceed sixteen (16) square feet.

3. Where signs are otherwise permitted, a Wireless Telecommunications Facilities may be concealed inside such signage, provided that all applicable standards for both the signage and the concealed Wireless Telecommunications Facilities are met.

### **F. Lighting**

1. Lighting on Wireless Telecommunications Facilities, if required by the Federal Aviation Administration (FAA), shall not exceed the FAA minimum standards.

2. Any Strobe lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA, and

shall utilize allowed downward shielding to minimize visual impact to pedestrians and reduce the potential attraction to migratory birds.

3. Dual lighting standards shall be used in the following manner: strobe lights during daylight hours and red lights during nighttime hours unless specifically prohibited by the FAA.

4. A Wireless Telecommunications Facilities may utilize a security light controlled by a motion-detector sensor at or near the entrance to the facility.

5. Ground lighting used to respectfully illuminate the American flag on a concealed Wireless Telecommunications Facilities flagpole shall be permitted.

#### **G. Equipment Compound**

1. The equipment compound shall not be used for the storage of any equipment or materials not needed for the operation or for hazardous materials (e.g., discarded batteries).

2. No outdoor storage yards shall be allowed in a Wireless Telecommunications Facilities equipment compound. In addition, the equipment compound shall not contain a habitable space.

#### **H. Conformance with State and Federal Codes**

1. Wireless Telecommunications Facilities and their equipment compounds shall be constructed and maintained in conformance with all applicable building code requirements.

2. Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection.

3. To protect the public from excessive exposure to electromagnetic radiation, the Wireless Telecommunications Facilities applicant shall certify through a written statement that the facility meets or exceeds current American National Standards Institute.

#### **I. Abandonment**

1. Wireless Telecommunications Facilities and the equipment compound shall be removed, at the owner's expense, within one hundred eighty (180) days of cessation of use.

2. An owner wishing to extend the time for removal or reactivation shall apply stating the reason for such extension. The town may extend the time for removal or reactivation up to ninety (90) additional days upon a showing of good cause. If the antenna support structure or antenna is not removed in a timely fashion, the town may give notice that it will contract for removal within sixty (60) days following written notice to the owner. Thereafter, the Town may cause removal of the antenna support structure with costs being borne by the current Wireless Telecommunications Facilities or landowner, to the extent that the costs are not defrayed by any posted bond.

3. Upon removal of (i) the Wireless Telecommunications Facilities, (ii) the equipment compound and (iii) the ground foundations to a depth of two feet below ground level, then the developed area shall be returned to its natural state including topography and vegetation consistent with the natural surroundings or consistent with the current use of the land at the time of removal. The cost of rehabilitation shall be borne by the current Wireless Telecommunications Facilities or landowner, to the extent that the costs are not defrayed by any posted bond.

#### **J. Maintenance Standards**

Any repair or replacement of an existing antenna or antenna array with another of like manufacturer model, type, and number, and which will not alter the structural integrity of the support structure, in any way, or alter the American National Standards Institute standards regarding radiation exposure shall be exempted from further review provided that a notarized certification shall be submitted by a North Carolina Registered Professional Engineer stating that

the replacement will not alter the structural integrity of the support structure, and that any changes will not affect electrical specifications.

#### **K. Supplemental Review**

The town reserves the right to require a supplemental review for any type of Wireless Telecommunications Facilities as determined necessary subject to the following.

1. Where due to the complexity of the methodology or analysis required to review an application for a WCF, the town may require the applicant to pay for a technical review by a third-party expert, the cost of which shall be borne by the applicant and be in addition to other applicable fees.
2. The fee shall be established in the Town of Carthage adopted Fee Schedule and shall not exceed the maximum allowed by state statute.
3. Based on the results of expert review, the approving authority may require changes to the applicant's application or submittals.
4. The supplemental review may address any or all the following.
  - i. Accuracy and completeness of the application and accompanying documentation.
  - ii. Questions regarding a determination of substantial modification.
  - iii. The applicability of analysis techniques and methodologies.
  - iv. The validity of conclusions reached.
  - v. Consistency with approval criteria set forth in SR 37 or the Town of Carthage Land Use Plan.

### **Section 3. Freestanding Concealed (Stealth) WCF**

#### **A. Applicability**

In addition to the general development standards listed Sections 1 through 3, the following standards shall apply for all freestanding concealed wireless communications facilities.

#### **B. Designed for Maximum Collocation**

All new freestanding concealed Wireless Telecommunications Facilities should be designed for maximum collocation installations.

#### **C. Secondary Function**

All new freestanding concealed Wireless Telecommunications Facilities shall have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, silo, bell tower, clock tower, light standard, flagpole with or without a flag, or tree and shall not exceed one hundred ninety-five feet (195') in height.

#### **D. Minimum Lot Size**

All new freestanding Wireless Telecommunications Facilities shall meet minimum lot size standards of the underlying zoning district.

#### **E. Visual Profile**

New freestanding antenna support structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.

#### **F. Grading**

Grading shall be minimized and limited only to the area necessary for the new Wireless Telecommunications Facilities in accordance with an approved site plan.

#### **G. Setbacks**

The setback of the concealing use shall apply to freestanding concealed Wireless Telecommunications Facilities when they are installed on existing structures and when the modifications to the existing structure are in keeping with the aesthetics of the original structure.

#### **H. Landscaping Requirements**

All freestanding concealed Wireless Telecommunications Facilities must provide landscaping in accordance with its concealing (sometimes called secondary) use as shown on an approved landscape plan. Landscaping shall meet the requirement of Section 100.60.

#### **I. Deadline to Begin Service**

The application shall attest that the Wireless Telecommunications Facilities will be constructed, antennae installed, and service provided within 24 months of the date of approval.

#### **J. Height**

1. The maximum height is limited by height limits applicable to the secondary use and at a maximum shall not exceed 195 feet.
2. All height limits shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

#### **K. Neighborhood Meeting Encouraged**

1. A neighborhood meeting is encouraged to facilitate the exchange of information between the Wireless Telecommunications Facilities developer and local citizenry prior to finalization of a zoning application or petition for zoning map amendment.
2. The town shall help facilitate this exchange of information by making its facilities available for such meeting and providing assistance in identifying nearby property owners.
3. At a minimum, the applicant is encouraged to make the preliminary concept plan(s) available for review, explain the general concept for the proposed telecommunications tower and provide time for open comment and questions.

### **Section 4 Freestanding Non-Concealed WCF**

#### **A. Applicability**

In addition to the general development and application standards listed in Sections 1 through 3, the following standards shall apply for all freestanding non-concealed wireless communications facilities.

#### **B. Designed for Maximum Collocation**

All new freestanding non-concealed Wireless Telecommunications Facilities shall be designed for maximum collocation installations.

#### **C. Designed for Non-Concealed Collocation**

All new freestanding non-concealed Wireless Telecommunications Facilities of up to one hundred and ninety-five feet (195') shall be of monopole design and engineered and constructed to support collocation unless the applicant successfully demonstrates that such design is not feasible to accommodate the intended uses.

#### **D. Minimum Lot Size**



All new freestanding non-concealed Wireless Telecommunications Facilities shall meet minimum lot size standards of the underlying zoning district.

**E. Deadline to Begin Service**

The application shall attest that the Wireless Telecommunications Facilities will be constructed, antennae installed, and service provided within 24 months of the date of approval.

**F. Visual Profile**

New freestanding non-concealed Wireless Telecommunications Facilities antenna support structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.

**G. Grading**

Grading shall be minimized and limited only to the area necessary for the new Wireless Telecommunications Facilities in accordance with an approved site plan.

**H. Setbacks**

The following table outlines the required yard setbacks for a freestanding non-concealed and its equipment compound.

<b>Wireless Telecommunications Facilities Setback Table<sup>1</sup></b>	
<b>Type of Setback</b>	<b>Freestanding Non-concealed Wireless Telecommunications Facilities Setback Distance in feet</b>
From Lot Line	Height of Wireless Support Structure
From Public Road Right-Of-Way	500
From Private Road Centerline	500
From Residential Historic District Zoning District	1,000 for Wireless Support Structure over 124 feet
	750 for Wireless Support Structure between 80 and 124 feet
	500 for Wireless Support Structure between 50 and 79 feet
	100 for Wireless Support Structure below 50 feet
1. All setbacks are measured from the tower at the base of the tower foundation	

**I. Landscaping Requirements**

All non-concealed freestanding Wireless Telecommunications Facilities must comply with the following landscaping requirements.

1. For towers one hundred fifty (150) feet or less in height, at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height shall be provided with individual plantings spaced not more than five (5) feet apart and at least one (1) row of evergreen trees with a minimum caliper of one and three-fourths (1 3/4) inches at the time of planting and spaced not more than twenty-five (25) feet apart shall be provided within fifteen (15) feet of the perimeter of the setback area.
2. For towers more than one hundred fifty (150) feet in height, in addition to the requirements for landscaping above, one (1) row of deciduous trees, with a minimum caliper of two and one-

half (2 1/2) inches at time of planting and spaced no more than forty (40) feet apart shall be provided within twenty-five (25) feet of the perimeter of the setback area.

3. In lieu of the above requirements, in special cases including, but not limited to, cases where a required tree would be closer to the tower than the height of the tree at maturity, the applicant may prepare a detailed plan and specifications for landscape and screening, including plantings, fences, walls, topography, etc., to screen the base of the tower and accessory uses. The plan shall accomplish the same degree of screening achieved in items a. and b. above but may deviate from the specific requirements set forth, and it shall be determined by the Zoning Administrator that the public interest will be equally served by such plan.

4. All required landscaping shall be installed according to established planting procedures using good quality plant materials.

5. No certificate of occupancy shall be issued until the required landscaping is completed in accordance with the approved landscape plan as certified by an on-site inspection by the Zoning Administrator. When the occupancy of a structure is desired prior to the completions of the required landscaping, a certificate of occupancy shall be issued only if the owner or developer provides to the Town a form of surety bond in an amount equal to the remaining plant materials, related materials and installation costs.

a. All required landscaping must be installed and approved by the first planting season following issuance of the certificate of occupancy or the surety bond will be forfeited to the Town.

6. The owners and their agents shall be responsible for providing, protecting and maintaining all landscaping in healthy and growing conditions, replacing unhealthy or dead plant materials within one (1) year or by the next planting season, whichever comes first. Replacement material shall conform to the original intent of the landscape plan.

#### **J. Height**

The following are the height requirements for non-concealed freestanding WCF:

1. In the RA-40 zoning district, Wireless Telecommunications Facilities are presumptively limited to a maximum height of 100 feet. A maximum of 195 feet may be allowed if the applicant is able to meet a setback of 1000 feet.
2. The maximum height of Wireless Telecommunications Facilities in the TBD, HC and I zoning districts is limited to 100 feet.
3. The Board of Commissioners may permit a tower greater than that allowed within the applicable zoning district only if undisputable evidence is provided at application that the Wireless Telecommunications Facilities service area will be so substantially compromised that there would be a requirement of additional Wireless Telecommunications Facilities within a distance of one-half (0.5) miles.
4. The height limit shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

#### **K. Neighborhood Meeting Encouraged**

1. A neighborhood meeting is encouraged to facilitate the exchange of information between the Wireless Telecommunications Facilities developer and local citizenry prior to finalization of a zoning petition.
2. The town shall help facilitate this exchange of information by making its facilities available for such meeting and providing assistance in identifying nearby property owners.

3. At a minimum, the applicant is encouraged to make the preliminary concept plan(s) available for review, explain the general concept for the proposed telecommunications tower and provide time for open comment and questions.

## **Section 5 Collocation (Not Including Section 6: Collocations of Small/Micro Wireless Facilities)**

### **A. Applicability**

In addition to the general development standards listed in Sections 1 through 3, the following standards shall apply for all attached wireless communications facilities.

### **B. Height**

1. In the event that an existing structure (other than a wireless communication tower) is proposed as a mount for a wireless communication facility, the height of the original structure shall not be increased by more than fifteen (15) feet above the highest point of a flat or mansard roof or fifteen (15) feet above the height at the midpoint between the peak and the eaves of other roof styles, unless the facility is completely camouflaged (for example, a facility within a flag pole, steeple or chimney).
2. Any increase in height shall be in scale and proportionality to the structure as originally configured.
3. A provider may locate a wireless communication facility on a building that is legally non-conforming with respect to height, provided that the provisions of this section are met.
4. A collocated or combined Wireless Telecommunications Facilities shall not increase the height of an existing wireless support structure by the greater of more than ten percent (10%) or the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet.

### **C. Setbacks**

1. An attached Wireless Telecommunications Facilities and its equipment compound shall be subject to the setbacks of the underlying zoning district.
2. Antennas may extend a maximum of 30 inches into the setback. However, no antenna or portion of any structure shall extend into any easement or private property.
3. When a collocated or combined Wireless Telecommunications Facilities is to be located on a nonconforming building or structure, then the existing setbacks of the nonconforming structure shall be met.

### **D. Visibility**

1. Attachment on Buildings: Feed lines and antennas shall be designed to architecturally match the façade, roof, wall, or structure on which they are affixed so that they blend with the existing structural design, color, and texture.
2. Attachment on Wireless Communications Facility. New antennae shall be flush-mounted onto existing Wireless Telecommunications Facilities, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage.

## **Section 6 Collocation of Small or Micro Wireless Facilities**

### **A. Applicability**

In addition to the general development standards listed in Section 1, as applicable, the following

standards shall apply for all collocated small and micro wireless facilities.

**B. Application Requirements for Collocation Outside Single-Family Districts and on Town-Owned Rights-of-Way**

1. Administrative Permits are required for small/micro wireless facilities meeting the definitions in Section 1 if the facilities (i) meet the height requirement of Table 2 and are located (ii) in Town-owned rights-of-way or (iii) outside of the rights-of-way on property that is not zoned R-HD, R-10 or R-20.

*Table 2: Small Wireless Facility Height Requirements, Sub-section B. 1.*

<i>New, modified or replacement utility pole Town utility pole (Height in Feet)</i>	<i>Height of small wireless facility above utility pole, wireless support structure or Town utility pole</i>	<i>Total Height (in feet)</i>
50 above ground level	10 feet	60

EXCEPTION for properties zoned R-HD, R-10 or R-20 where utilities are underground: New modified or replacement utility poles, Town utility poles and wireless support structures may be no taller than 40 feet.

2. Town may deny an application only on the basis that it does not meet any of the following: (a) the Town's applicable codes; (b) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; (c) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or (d) the requirements of the Residential Historic District.

3. The application must include a sworn, notarized attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date.

4. Applicants may file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of SR 37. Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (a) for which incomplete information has been provided or (b) that are denied. The Town may issue a separate permit for each collocation that is approved.

**C. Application Exceptions**

1. Despite the requirements of this Section 6, for facilities meeting the requirements of sub-section 6.B.1, no application, permit or fee is required under the zoning ordinance for: (a) Routine Maintenance or (b) The replacement of small wireless facilities with small wireless facilities or (c) Installation, placement, maintenance or replacement of micro wireless facilities that are suspended between existing utility poles or Town utility poles or (d) Communication services providers authorized to occupy Town rights-of-way who are paying taxes under N.C. Gen. Stat. §§ 105-164.4 (a) (4c) or (6).

2. This exception does not apply to work permits, make ready permits, applications for

collocation on or replacement of Town-owned poles, pole attachment fees or Code of Ordinances § 52, Work Within Public Rights-of-Way, Utilities, Encroachment Permits.

**D. Schedule**

The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

**E. Setbacks**

Setbacks are not required for collocations approved under this section, except for the public safety requirements of Chapter 52 “Work within Public Rights of Way, Utilities, Encroachment Permits”.

**F. Visibility**

Existing decorative street poles can only be replaced by decorative street poles.

**G. Equipment Compound Expansion for Collocations**

Except as provided in the definitions of Small Wireless Facilities and Micro Wireless Facilities, equipment compounds are not permitted.

a. For all applications, the applicant shall provide a statement as to all the potential visual and aesthetic impacts of the proposed facility on all adjacent residential and Residential Historic District zoning districts.

**H. Abandonment**

1. Wireless services providers are required to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.

2. This section applies to rights-of-way controlled by the N.C. Dept. of Transportation.

**SR 38. Solar Energy Systems (SES)\***

**A.** An SES established prior to the effective date of January 15, 2015 shall not be subject to these special requirements with the following exception: modifications to existing SES that increase the area by more than 5% of the original footprint or change the solar panel type (e.g. photovoltaic to solar thermal) shall be subject to all requirements.

**B.** Maintenance and repair are not subject requirements of this section.

**C.** The applicant shall demonstrate compliance with local, state and federal requirements before construction of the facility may commence including but not limited to 1) building/electrical permits, 2) avoidance of onsite wastewater systems (septic tanks and drain fields), 3) storm water permits and 4) Certificates of Appropriateness for construction in a Historic District.

D. **Ground-Mounted Setbacks.** The following table provides the parcel line setback to ground-mounted SES equipment, excluding any security fencing, poles and wires necessary to connect to facilities of the electric utility.

Ground-mounted SES shall not be placed in front of the principal structure on a residentially developed lot in major subdivisions or existing lots of record of less than one acre in size.

**Parcel Line Setback Table:**

Zoning District	Level 1	Level 2			Level 3		
		Front	Side	Rear	Front	Side	Rear
RA-40	Per Zoning District**, ***	50' *	50' *	50' *	Not Permitted		
R-20, R-10	Per Zoning District**, ***	50' *	50' *	50' *	Not permitted		
RM-I O, R-MH, R-HD	Per Zoning District**, ***	50' *	50' *	50' *	Not permitted		
CBD, B-2	Per Zoning District**, ***	≤ ½ acre only as per Zoning District*			Not permitted		
TBD	Per Zoning District**, ***	≤ ½ acre only Per Zoning District*			Not permitted		
HCD	Per Zoning District**, ***	≤ ½ acre only per Zoning District*			Not permitted		
I	Per Zoning District**, ***	Per Zoning District*			Per Zoning District*		
AP	Per Zoning District**, ***	≤ ½ acre only Per Zoning District*			Not permitted		
*100' setback for SES equipment, excluding any security fencing, to any residential dwelling unit. If the SES is on a bona fide farm where the primary residential structure of the farm is on an adjacent lot then this 100' setback will not apply to this primary residential structure.							
** Ground-mounted SES must comply with district front yard limitations and setbacks, or otherwise not impair sight distance for safe access to or from the property							

\*\*\*Level 1 SESs are not subject to screening requirements typically applied to accessory utility systems (HVAC, dumpsters, etc.).

A. Height Limitations. The height of systems will be measured from the highest natural grade below each solar panel subject to the following. Utility poles and antennas are not subject to maximum height restrictions.

- a. Roof-mounted systems shall not exceed a maximum height of 35'.
- b. Ground-mounted systems shall not exceed a maximum height of 20'.

B. Aviation Notification. (See Appendix C for additional information). The requirements below apply only to Level 1, 2, and 3 systems over ½ acre in size.

a. A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.

b. For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the CUP hearing for Level 3 SESs and at least 45 days before starting construction for applicable Level 1 & Level 2 SESs. Notification shall include location of SES (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.

c. The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the zoning administrator, shall be sent to the authority indicated below at least 30 days before the CUP hearing for Level 3 SESs and at least 45 days before starting construction for Level 1 & Level 2 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application.

- i. Airport operations at airport in the National Plan of Integrated Airport Systems (NPIAS) within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.
- ii. Airport operations at airport *not* in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.

Any applicable SES design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in 7.b.i and 7.b.ii above for accurate records of the as built system.

C. Level 1 SES are a permitted use provided they meet the applicable height, setback, aviation notification and related district standards.

D. Level 2 and 3 Solar Energy System Requirements. These requirements are in addition to height, setback, aviation notification, and applicable district standards.

a. Site Plan

i. A site plan shall be submitted to the Zoning Administrator demonstrating compliance with:

a. Setback and height limitations established in SR #38.D and E.,

b. Applicable zoning district requirements such as lot coverage,

ii. Applicable solar requirements per this ordinance.

b. Visibility

i. SESs shall be constructed with buffering as required by the applicable zoning district or development standards (see Sec. 100.60).

ii. Public signage (i.e. advertising, educational, etc.) as permitted by local signage ordinance, including appropriate or required security and safety signage.

iii. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

c. Decommissioning (see Appendices D and E for a sample decommissioning plan, example abandonment clause and information on decommissioning)

i. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application.

1. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.).

2. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations

3. Restoration of property to condition prior to development of the SES.

4. The timeframe for completion of decommissioning activities.

5. Description of any agreement (e.g. lease) with landowner regarding decommissioning.

6. The party currently responsible for decommissioning.

7. Plans for updating this decommissioning plan.

ii. Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Register of Deeds.

1. The Town of Carthage shall be made a beneficiary of these covenants to the extent necessary to maintain compliance with the Decommissioning Plan.



2. The grantor agrees that the following statement shall be inserted in any deed or other document of conveyance;

"Title to the property hereinabove described is subject to the following exceptions:

That certain Decommissioning Plan dated \_\_, 20\_\_ recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ in the Moore County Public Registry, North Carolina, creating obligations of performance of the grantors which the grantee hereby assumes and agrees to perform and pay as part of the consideration of this conveyance [and except further that this conveyance is made subject to any and all enforceable restrictions and easements of record (if applicable)]."

In the event that such conveyance is other than by deed, the above terms of "grantor/grantee" may be substituted by terms such as "landlord/tenant".

### **SR 39. Vendor, Mobile Food**

All mobile food vendors shall comply with the regulations of this section except as associated with Temporary Events. Mobile food vendors associated with temporary events shall be consistent with Section 112 of the General Code of Ordinances. This section is not applicable to wayside stands for sale of produce and seasonal products. Mobile food vendors at fixed locations shall have both a mobile food vendor license and a zoning permit. Fixed locations may include areas such as private property and flea markets.

#### **A. Siting Requirements**

1. A maximum of one (1) mobile food vendor shall be located on a Lot or Parcel.
  
2. Mobile food vendors shall be located a minimum of one hundred (100) feet from the main entrance to any eating establishment or similar food service business, and one hundred (100) feet from any outdoor dining area, as measured from the designated location on the Lot or Parcel accommodating the food truck, trailer or cart.
  
3. Mobile food vendors shall be located a minimum of two hundred (200) feet from a religious establishment unless associated with said religious establishment.
  
4. Food trucks, trailers and carts shall be located a minimum distance of fifteen (15) feet from the edge of any driveway or public sidewalk, utility box or vaults, handicapped ramp, building entrance, exit or emergency access/exit, emergency call box or fire hydrant.

5. Food trucks, trailers and carts shall not be located within any area of the Lot or Parcel that impedes, endangers, or interferes with pedestrian or vehicular traffic.
6. Food trucks, trailers and carts shall not occupy any parking spaces required to fulfill the minimum requirements of the principal use, unless the Principal Use's hours of operation do not coincide with those of the food truck business or the current parking demand does not require the use of the spaces. Nor shall any mobile food vendor occupy parking spaces that may be leased to another business and used to fulfill its minimum parking requirements.
7. Food trucks, trailers and carts shall not occupy any handicap accessible parking space as specified in G.S. 20-37.6.

\*\*added 8-10-15

#### B. Operations

1. One freestanding sandwich board sign shall be permitted as part of the food truck, trailer or cart vending operation. No audio amplification shall be permitted as part of the food truck, trailer or cart vending operation.
2. Hours of operation of food trucks, trailers and carts shall be limited to the hours between 6:00 a.m. and 8:00 p.m., unless the designated location on the lot accommodating the use is located within one hundred (100) feet of the property line of a single-family or duplex dwelling, in which case the hours of operation shall be limited to the hours between 7:00 a.m. and 7:00 p.m.
3. When open for business, the food truck, trailer or cart operator, or his or her designee, must be present at all times, except in cases of an emergency.
4. The food truck, trailer or cart vendor is responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Vendors shall remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor shall keep all areas of the permitted lot free and clean of grease, trash, paper, cups, cans or other materials associated with the vending operation. No liquid waste or grease is to be disposed in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of in the Town's sanitary sewer system.

All equipment required for the operation shall be contained within, attached to or within twenty (20) feet of the food truck, trailer or cart. All food preparation, storage, and sales-distribution shall be in compliance with all applicable County, State and Federal Health Department sanitary regulations.

#### C. Permits Required

1. A Town zoning permit shall be obtained by the property owner (as listed in the Moore County, North Carolina property tax records) for any Lot or Parcel proposed to accommodate a mobile food vending operation. If at any time evidence is provided that the permitted Lot

or Parcel is being used other than in compliance with these regulations, the zoning permit shall be rendered null and void, and the owner shall be subject to civil penalties for such violation as hereinafter set forth. This zoning permit shall be required to be renewed annually.

2. A mobile food vendor permit shall be obtained annually by the vendor. Prior to the issuance of the permit, the vendor shall provide evidence of having obtained a Town zoning permit (as described in paragraph (A)), a food vending permit from the Moore County Environmental Health Department, a North Carolina Sales and Use Certificate for collecting and paying the proper sales taxes, and a means for the disposal of grease within an approved grease disposal facility.
3. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the mobile food vendor permit shall be rendered null and void, and the business shall be required to cease operation immediately. In addition, the vendor shall be subject to civil penalties for the violation as hereinafter set forth.
4. Copies of the zoning permit and food vending permit shall be kept in the food truck, trailer or cart at all times.
5. If at any time, the Moore County Environmental Health Department revokes or suspends the issued food vending permit, the Town permit for mobile food vending operation shall be revoked or suspended simultaneously.

#### D. Enforcement

1. This section shall be enforced by the issuance of civil penalties or any other equitable remedy as provided in this code.
2. The penalty for violating this section shall be as follows: For the first offense, the fine shall be \$100. For the second offense, the fine shall be \$300. The mobile food vendor permit shall be revoked after the third offense.

#### **SR 40. Private Clubs**

- A. Private clubs shall not be located on the first floor (also known as street level) of buildings in the CBD district. This restriction shall also apply if doors for ingress and egress are at street level and lead directly into the establishment.
- B. Nighttime hours shall not exceed past 12:00 a.m. in the CBD district.
- C. A maximum of one pool table is allowed per establishment.
- D. Private clubs must have a horizontal separation of 100 feet from each other, nearby churches and residentially zoned property.

- E. Audible noise must be controlled. If the Police Department verifies unacceptable noise levels coming from within the establishment while on the outside of the establishment three or more times in a month, the applicant must take steps to up fit for proper noise control within sixty (60) days or the town may take steps to revoke the permit. Unacceptable noise is deemed to be noise levels which do not permit ease of conversation or the ability to hear telephone calls when being made or received in adjoining businesses.

**SR 41. Family Child Care Home**

- A. Care occurs in the home.
- B. Five (5) or fewer children.
- C. Allows additional three (3) children for after school care.
- D. Total allowed is in addition to children of the operator.
- E. Must meet all requirements of County Building Inspector, Fire Marshal, Environmental Health and Division of Child Development and Early Education.

**SR 42. Child Care Center-in-Residence**

- A. Allows for a maximum of 12 children in occupied residence.
- B. May have up to 15 if the care is for school aged children.
- C. Must be located on a public road or provide documentation of private road maintenance agreement.
- D. Require adequate parking based on maximum number of children.
- E. Require enhanced planted buffer around the fenced play area.
- F. Must meet all requirements of County Building Inspector, Fire Marshal, Environmental Health and Division of Child Development and Early Education.

**SR. 43. Child Care Center**

- A. Stand-alone facility with any number of children subject to approval by the state.
- B. Must be located on a paved road. If the paved road is private, documentation of private road maintenance agreement shall be provided.
- C. Facilities with greater than 15 children shall be located along a collector or thoroughfare road.
- D. Must meet all requirements of County Building Inspector, Fire Marshal, Environmental Health and Division of Child Development and Early Education.
- E. New facilities are subject to all site plan requirements for commercial construction, including parking, landscaping and buffers.

**SR 44. Recording Studio**

- A. All town ordinances on sound will be followed and a maximum decibel level will be determined.

**SR 45. Antique Stores**

A. The outdoor display and/or sale of goods in connection with an antique store shall be limited to an outdoor display area no larger than ten (10) square feet. Items displayed in the open must be stored inside at the end of the business day. In addition to the allowed ten (10) square feet, items may be displayed and remain outside if they are under the protective cover of a porch or non-cloth awning. Outdoor storage may not extend into the front yard more than five (5) from the building or any side yard having frontage on a public street more than five (5) feet from the building. Outdoor storage shall not extend into any public right-of-way, and it shall not impede public ingress and egress.

**SR 46. Tattoo Parlors and Body Modification Services.**

- A. All new buildings or existing structures permitted under this category must be in compliance with the underlying zoning district regulations for setbacks, buffer yard, required parking and allowable signage.
- B. No tattoo parlor or body modification service establishment shall be located within 500 feet of another such establishment.

**SR 47. Electronic Gaming Operations**

In addition to the regulations provided for elsewhere in this ordinance, electronic gaming operations shall be subject to the following requirements:

- A. Hours of Operation. Electronic gaming operations may operate from 9:00 a.m. until 10:00 p.m., Monday-Saturday;
- B. Spacing Requirements.
  - (1) Each electronic gaming operation must be a minimum of five hundred (500) feet from any building being used as a dwelling, church or school.
  - (2) Each electronic gaming operation must be a minimum of one thousand (1000) feet from any other electronic gaming operation.
  - (3) For the purposes of this subsection, the distance shall be measured in a straight line from the closest point between the building housing the electronic gaming operation and the building housing the dwelling, school, church or other electronic gaming operation;
- C. Maximum Number of Games. Any Electronic Gaming Operation or electronic gaming established as an accessory use, shall have a maximum of four gaming machines.
- D. At all times, a maximum of 16 people are allowed in the gaming area, or a total of 16 game players and/or observers.
- E. Electronic Gaming Operations that are existing non-conformities are not allowed to expand the use or increase the non-conformity.

**SR 48. Live Auction**

- A. An auctioneer will act as a moderator.
- B. Participants will bid on various goods; not to include livestock.

**SR 49. Boarding & Rooming Houses, Bed & Breakfasts, Homestays, Short Term Rentals.**

- A. The owner or authorized representative for the home must living within one mile of the operation.
- B. Not more than four (4) bedrooms shall be used for lodging purposes additional bedrooms may be for personal use by the homeowner or authorized representatives.
- C. Parking for lodgers must be available on or immediately adjacent to the property and cannot occur on front or side lawns or in town rights of way.
- D. The use of Recreational Vehicles or mobile homes for these purposes are limited to where such uses are allowed.

**SR 50. Dwellings, Duplexes and Single-Family Attached.**

- A. Duplexes. Duplexes shall comply with the following standards:
  - 1. One duplex is permitted per lot.
  - 2. Each lot much meet the dimensional requirements for duplexes as listed in Section 100.57.21 Table of Dimensional Standards.
- B. Single-Family Attached. Single-family attached development shall comply with the following standards:
  - 1. Each single-family attached development project must meet the dimensional requirements for Single-family Attached projects listed in Section 100.57.21 Table of Dimensional Standards.
  - 2. The maximum number of units is based on the underlying zoning district, the Dimensional Table as shown in Section 100.57.21, and the size of the project parcel.
  - 3. Subdivision standards listed in Section 100.65, shall be applied to projects with more than three (3) attached dwellings.
- C. Projects requesting greater density must go through the Conditional Zoning process as outlined in Section 100.46. Any requested revisions to other development requirements such as buffer yards and parking will be considered during the Conditional Zoning process.
- D. For all Single-family attached and duplex development, the net residential area should be used to calculate the number of dwellings allowed. (See definition in Section 100.70).
- E. All streets or access ways providing ingress and egress from the development to an existing street system in the R-10 and RM-10 zoning districts shall be classified as public and are required to use current street drainage standards and install curb and gutter. Additionally, a minimum of twenty (20) feet pavement width is required on all streets.
- F. All site plans shall be in accordance with Section 100.64.

**Sec. 100.57 General and Dimensional Standards**

1. Zoning Affects Every Building and Use

No building or land shall hereafter be used, and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Zoning Ordinance.

2. Relationship of Buildings to Lot

Every building hereafter erected, moved or placed shall be located on a lot and in no case shall there be more than one (1) principal residential building on a lot except as otherwise provided for in this Ordinance by the Special Requirements of Section 100.56A.

### 3. Street Access

No building, structure or use of land shall be established on a lot nor shall any lot be created that does not abut upon a public street as defined herein to which it has legal access for a distance of not less than twenty-five (25) feet. Provided, the following exceptions shall apply to the access requirement:

- a. The access requirement shall not apply to lawfully existing lots of record with a minimum of twenty-five (25) feet of frontage on a dedicated but not maintained street.
- b. The access requirement shall not apply to developments exempt from public street access by a special requirement or development in a Planned Unit Development.

### 4. Lot of Record

Where the owner of a lawfully existing lot of official record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of the Ordinance, such lot may be used as a residential building site, where permitted, provided however that the other requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a single ownership at any time after the adoption of the Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as one or more lots which meet the minimum requirements of this Ordinance for the district in which such lots are located.

### 5. Open Space Requirements

No part of a yard, court or other open space provided around any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required under this Ordinance for another building or structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except as provided for in this section. However, certain accessory structures are permitted to be placed in the required yard areas as provided for in this section.

### 6. Reduction of Lot and Yard Areas Prohibited

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

## 7. Water and Sewer Requirements

The lot sizes required for the various districts in the Ordinance were drawn upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, may not permit development as intended.

## 8. Height Limitation Exceptions

The height limitations of this Ordinance shall not apply to public buildings, churches, temples, schools, hospitals, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power and communication transmission towers, flag poles and similar structures provided such structures meet the required North Carolina Building Code. Height limitations shall apply to wireless telecommunication facilities as regulated herein, unless co-located on existing facilities, located on town owned property or developed as “stealth” facilities.

## 9. Building Setback Exceptions

Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building or structure excluding:

- a. Unenclosed porches, balconies or decks (no screen or glass) which do not project into any required yard more than five (5) feet; and
- b. Chimneys, flues, eaves, roof overhangs, windowsills and bay windows which do not project into any required yard more than three (3) feet; and
- c. Patios, drives, walkways, if no portion of the same extends more than twelve (12) inches off the ground.
- d. Any structure that is a mere appendage to a building such as a flagpole or fountain.
- e. Open, unenclosed attached carports may project to within five (5) feet of an interior side or rear property line or to within fifteen (15) feet of a side or rear property line abutting a street.
- f. Handicap ramps meeting building code standards.
- g. In commercial and industrial districts, open, unenclosed gasoline pump canopies, gasoline filling and related equipment and similar facilities may project into one-half (1/2) of the front yard setback requirement for the district.



## 10. Sidewalks for Existing Lots of Record

New construction on existing lots of record shall install sidewalks built to Town of Carthage standards when located on a block containing sidewalks or if located on a major or minor collector, or principal or minor arterial road in accordance with NCDOT's functional road classification.

## 11. Fences and Walls

Unless otherwise specified within this Ordinance, fences and walls shall be exempt from setback and yard requirements provided they comply with the visibility requirements of number 13 below and the following standards:

- a) Fences may be installed in the required setback of any residential lot, except that in the required front setback of the lot, the height of such fencing or screening shall be limited to a maximum height of three (3) feet if a solid fence and five (5) feet if the fence is fifty (50) percent or more transparent.
- b) Fencing on lots 10,000 square feet or less are limited to materials such as white vinyl, wrought iron, brick, stucco, or stone.
- c) Fencing in all other setbacks of all other residential property shall be limited to a maximum height of six (6) feet in height except as otherwise specifically stipulated herein. Fences in non-residential districts are limited to eight (8) feet in height.
- d) Fences must be placed two (2) feet from the Right-of-Way or from any sidewalk unless an encroachment permit is obtained by administrative approval. Placing a fence in Right-of-Way or within two (2) feet from sidewalk, an encroachment permit is needed.
- e) There shall be no fence constructed of barbed wire, razor wire or other fence materials designed to cut or puncture, except in the Industrial Zone.
- f) Fences in the Central Business District shall be limited to three (3) feet in height and must be constructed of material such as brick, stucco, stone, or aluminum.
- g) Fences in all other commercial districts shall be limited to eight (8) feet in height behind the front line of the primary building, unless permitted by the Development Administrator.

## 12. Double Frontage Lots

In all Zoning districts, Double Frontage Lots shall provide the minimum yard requirements for Front Yards along both street fronts.

## 13. Front Yard Setbacks for Dwellings

For dwellings in residential districts, where lots located on either side of a center lot are improved with buildings having a front yard setback of less than twenty-five (25) feet, and the structures are no more than two hundred (200) feet apart, the required setback of the center lot shall be the average of the setback of the two (2) adjacent main buildings.

## 14. Stabilization of New Lots

Whenever a new lot is developed or cleared for future development use, it shall be stabilized to control erosion. Ditches and other similar areas shall be sodded. Yards may be seeded or sodded. Sediment screens and other control devices will be used during construction to keep sediment out of gutters, streams, and wetlands.

#### 15. Residential Driveways for New Construction

Residential driveways for new construction on lot sizes 40,000 square feet or greater shall be constructed using loose gravel or stone or may be paved in asphalt, concrete, brick or other similar masonry. If using loose materials, a minimum of a twenty (20) foot deep concrete or masonry driveway apron shall be constructed where the driveway enters onto any roadway to reduce loose materials from entering onto the street. Residential driveways for new construction on lot sizes 20,000 to 40,000 square feet in size shall be paved with either concrete, asphalt, brick or other similar masonry material. Within subdivisions, driveways should be uniform in style. Residential driveways for new construction on lot sizes smaller than 20,000 square feet shall be paved in concrete only.

Driveways shall not be constructed that allow for vehicles to back out directly onto major or minor arterials.

On-street parking, where allowed, shall not block access to residential driveways.

At no time shall vehicles park in front yard or areas not designed for parking.

#### 16. Visibility at Intersections

On a corner lot in any district other than the Central Business District, no planting, structure, sign, fence, wall or obstruction to vision within the range of three (3) feet to seven (7) feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said right-of-way lines, each of which is fifteen (15) feet from the point of intersection.

#### 17. Temporary Buildings

Temporary buildings, including mobile structures, incidental to a construction project may be permitted to be used concurrent with the permit for permanent building(s) or construction. Such temporary building shall be removed promptly upon completion of construction. No such building shall be used for dwelling purposes. Temporary buildings shall be located at least twenty-five (25) feet from any property used for residential purposes. Temporary

classroom buildings for public schools may be permitted for a two (2) year period. Extensions of the time period may be permitted through a special use permit.

#### 18. Entrances/Exits to Public Streets

Entrances and exits to public streets shall be placed and constructed in accordance with the “Policy on Street and Driveway Access to North Carolina Highway” adopted by the North Carolina Department of Transportation (NCDOT), as amended.

#### 19. Underground Utilities

For all developments, all utility services for the property, including all wire services, shall be placed underground.

#### 20. Class C Mobile Homes Prohibited

After the effective date of this Ordinance no Class C Mobile Home shall be placed in the jurisdiction of this Ordinance nor shall any Class C Mobile Home that is existing within the jurisdiction of this Ordinance be moved and placed at any other location within the jurisdiction of this Ordinance.

#### 21. Use of Mobile Homes for Storage Prohibited

The use of mobile homes, travel trailers and truck trailers for storage purposes shall be expressly prohibited in all zoning districts.

#### 22. Equipment Screening

Facilities such as solid waste containers, electrical equipment, HVAC equipment, utility equipment of any kind, outside storage areas for commercial or industrial establishments, etc., which are located on the lot, but which are not contained within the principal building, shall be screened from public view by a ninety percent (90%) opaque screening device. No chain link fencing shall be permitted to fulfill this requirement. Screening shall not apply to one- and two-family homes on individual lots or to permanent display of items for sale in districts where outside storage is permitted and such items are intended for permanent outdoor usage.

#### 23. Setback from Residential Districts

Any use in any nonresidential district which has any activity area not completely enclosed in a building such as car washes, equipment repair areas, intensive play areas, heavy vehicle parking, areas with intensive lighting, amplified sound, or any such area which might cause fumes, noise, light or similar effects upon the adjoining residential area shall setback such area

a minimum of fifty (50) feet from the residential zoning line and implement measures to lessen such adverse effects. Special requirements may require greater setbacks for some use.

#### 24. Tables of Dimensional Standards

All uses and structures in the general use zoning districts shall comply with the following requirements, except as may otherwise be provided by this Ordinance.

[continued on next page]

<b>HOUSING TYPE</b>	<b>DIMENSION</b>	<b>RA-40</b>	<b>R-20</b>	<b>R-10</b>	<b>RM-10</b>	<b>R-MH</b>	<b>R-HD</b>	<b>CBD</b>	<b>AP</b>
Single Family Detached	Minimum Lot Area (sf)	40,000	20,000	10,000	10,000	6,000 (1)	15,000	n/a	15,000
	Minimum Lot Width (ft)	100	100	75	75	60	75	n/a	n/a
	Front Setback (ft)	50	30	30	30	20	30	12	40
	Side Setback (ft)	15	15	10	10	8	20	none	15
	Rear Setback (ft)	25	25	25	20	20	20	12	20
	Corner Setback (ft)	25	25	25	20	8	20	12	15
Duplexes	Minimum Lot Area (sf)	n/a	30,000	15,000	15,000	9,000	n/a	22,500 (2)	22,500
	Minimum Lot Width (ft)		100	100	100	80		100	60
	Front Setback (ft)		30	30	30	20		12	40
	Side Setback (ft)		15	15	10	8		none	15
	Rear Setback (ft)		25	25	20	8		12	20
	Corner Setback (ft)		25	25	20	20		12	15
Single-Family Attached	Minimum Lot Area Per Dwelling Unit	n/a	30,000 for the first unit + 10,000 for each additional unit	15,000 for the first unit + 5,000 for each additional unit	15,000 for the first unit + 5,000 for each additional unit	n/a	n/a	22,500 for the first unit + 7,500 for each additional unit (2)	22,500 for the first unit + 7500 for each additional unit
	Minimum Lot Width		100	100	100			100	100
	Minimum Front/Back Yard		100 sf (3)	100 sf (3)	100 sf (3)			100 sf (3)	100 sf (3)
	Total Units Per Series		3	6	6			3	3

Multi-family Housing	See Section 100.56A SR# 8 Multi-family Development Standards
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Note (1): Where residential development is permitted, it shall comply with the RM District standards.

Note (2): No side yard setback is required unless abutting or across a street from a residential district in which case a fifteen (15) foot setback is required.

Note (3): Impervious surface limitations of the Water Supply Watershed Overlay Districts may further limit building coverage.

Note (4): Special setbacks for Solara Energy Systems may be found at Sec. 100.56A, SR #38.

<b>Table 2. Commercial and Industrial Districts (1)</b>						
	<b>Districts</b>					
<b>Dimension</b>	<b>CBD</b>	<b>B-2</b>	<b>TBD</b>	<b>HCD</b>	<b>I</b>	<b>AP</b>
Minimum lot size (sq. ft.)	n/a	10,000	15,000	15,000	43,560	10,000
Minimum front yard setback (ft.)	n/a	25	50	50	50	40
Minimum side yard setback (ft.)	n/a	see note # 2	20	20	25	15
Minimum corner lot side yard setback (ft.)	n/a	see note # 2	25	25	25	15
Minimum rear yard setback (ft.)	10	15	25	25	30	20
Maximum height (ft.)	35	35	35	35	35	35
Maximum building (3) coverage (percent of lot)	n/a	n/a	50	50	n/a	50

Note (1): Where residential development is permitted, it shall comply with the RM District standards.

Note (2): No side yard setback is required unless abutting or across a street from a residential district in which case a fifteen (15) foot setback is required.

Note (3): Impervious surface limitations of the Water Supply Watershed Overlay Districts may further limit building coverage.

Note (4): Special setbacks for Solara Energy Systems may be found at Sec. 100.56A, SR #38.

**Sec. 100.58 Off Street Parking and Loading**

Off Street Parking Requirements

Except in the Central Business District there shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Section. Such parking space may be provided in a parking garage or parking lot constructed in accordance with this section.

1. Certification of Minimum Parking Requirements

Each application for a Development Permit submitted to the Administrator as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking and the means of entrance and exit to such space. This information shall be in sufficient detail to enable the Administrator to determine whether or not the requirements of this section are met.

2. Definition of a Parking Space

The storage space of one (1) automobile. The size of a parking space shall be in accordance with geometric design principles for the type space and lot as follows:

- a. Except for parking spaces designed for the disabled as required by the Building Code, each parking space shall be at least nine (9) feet wide and nineteen (19) feet long.
- b. Parking lot dimensions shall be as follows:

<b>Angle of Parking Spaces Aisle Width in Feet</b>					
<b>Direction</b>	<b>0</b>	<b>30</b>	<b>45</b>	<b>60</b>	<b>90</b>
<b>One-way</b>	13	14	18	20	24
<b>Two-way</b>	19	20	21	23	24

### 3. Minimum Off-Street Parking Requirements

The following off-street parking space shall be required:

<b><u>Classification</u></b>	<b><u>Off-Street Parking Requirement</u></b>
	<u>(Any fractional space, e.g. 47.3, shall be considered the next whole number, e.g. 48)</u>
<b><u>Residential Uses</u></b>	
Boarding and rooming houses, bed & breakfast, fraternities or sororities, dormitories	1 per bedroom plus 1 per employee on largest shift plus required residential spaces. No more than 2 spaces may be in the front yard.
Congregate care facilities, family care homes, group care	1 per 4 beds plus 1 per employee and visiting facilities specialist plus 1 per vehicle used in operation
Multi-family dwellings (not including single family attached and town homes)	2 per dwelling + 1 extra space for every 10 dwellings.
Planned Unit Development	Per this Section in accordance with the specific use
Shelters for homeless	1 per resident staff member plus 1 per nonresident staff member on largest shift plus 1 per vehicle used in operation
Single family detached, duplexes, two-family dwellings and manufactured dwellings	2 per dwelling unit, on the same zone lot
New major residential subdivisions for single family attached and detached and town homes	2.5 per dwelling unit with a combination of on-site, off-street and on-street parking.
<b><u>Accessory Uses</u></b>	
Accessory dwelling units	1 additional space on the same zone lot



Home occupations		Minimum 1 space, maximum 3 spaces in addition to the required spaces except for barber or beauty shops
Migrant labor housing		1 per 4 workers
<b><u>Recreation Uses</u></b>		
Amusement parks, fair grounds, skating rinks		1 per 200 sq. ft. of activity area
Athletic fields		25 per field
Batting cages, driving ranges, miniature golf		1 per cage or tee
Billiard parlors, tennis courts		3 per table or court
Bowling centers		4 per lane
Clubs or lodges, coin operated amusements, physical fitness centers and similar indoor recreation		1 per 200 sq. ft. gross floor area
Go cart raceways		1 per go cart plus 1 per employee on largest shift
Golf courses		4 per hole
Recreation facilities exclusively for residents of a development (pools, tennis courts, clubhouses)		1 per 15 dwellings
Riding stables		1 per 2 stalls
Swimming pools		1 per 1,200 sq. ft. of water and deck space
<b><u>Educational and Institutional Uses</u></b>		
Ambulance services, fire stations, police stations		1 per employee on largest shift

Auditoriums, assembly halls, coliseums, convention centers, stadiums		1 per 4 persons based on design capacity of building(s)
Churches		1 per 4 seats in main chapel
Colleges and universities		7 per classroom plus 1 per 4 beds in dorms plus 1 pr 250 sq. ft. of office space plus 1 per 4 fixed seats in assembly halls and stadiums
Correctional institutions		1 per 10 inmates plus 1 per employee on largest shift plus 1 per vehicle used in operation
Day care, child or adult		1 per employee plus 1 per 10 attendees, on the same zone lot
Elementary and middle schools, kindergartens		3 per room used for offices plus 3 per classroom
Government offices, post offices		1 per 150 sq. ft. of public service area plus 1 per employee on largest shift
Hospitals		1 per 4 in-patient or out-patient beds plus 1 per employee on largest shift plus 1 per staff doctor
Libraries, museums and galleries		1 per 450 sq. ft. gross art floor area for public use plus 1 per employee on largest shift
Nursing and convalescent homes		1 per 4 beds plus 1 per employee plus 1 per vehicle used in operation
Senior high school		2 per room used for offices plus 7 per classroom
<b><u>Business, Professional, and Personal Services</u></b>		
Automobile repairs and service		3 per service bay plus 1 per wrecker or service vehicle plus 1 per employee on largest shift

Banks and financial institutions		1 per 200 sq. ft. gross floor area plus stacking for 4 vehicles at each drive thru window or automated teller machine
Barber and beauty shops		3 per operator plus 1 per other employees
Car washes, full service		Stacking for 30 vehicles or 10 per approach lane whichever is greater, plus 3 spaces per bay for manual drying plus 1 per employee on largest shift
Car washes, self-service		3 stacking spaces per approach lane plus 2 drying spaces per stall
Delivery services		1 per employee on largest shift plus 1 per vehicle used in operation
Equipment rental and leasing		1 per 200 sq. ft. gross floor area
Funeral homes or crematorium		1 per 4 seats in main chapel plus 1 per employee on largest shift plus 1 per vehicle used in operation
Hotels and motels		1 per rental unit plus 1 space per employee, plus requirements for any other associated use, such as a restaurant or lounge
Kennels or pet grooming		1 per 300 sq. ft. of sales, grooming, or customer waiting area plus 1 per employee on largest shift
Laboratories		1 per employee on largest shift plus 1 per 250 sq. ft. of office space
Laundromats, coin-operated		1 per 4 washing machines and dryers
Laundry and dry-cleaning plants or substations		1 per employee on largest shift plus 1 per vehicle used in operation plus stacking for 4 vehicles per pickup door or window

Medical, dental or related offices	3 per examining room plus 1 per employee including doctors
Motion picture productions	1 per 1,000 sq. ft. gross floor area
Office uses not otherwise classified	1 per 250 sq. ft. gross floor area
Recreational vehicle parks or campsites	Refer to development standards for recreational vehicle parks
Repair of bulky items (furniture, boats, appliances, etc.)	1 per employee on largest shift plus 1 per vehicle used in operation
Theaters (indoors)	1 per 4 seats
Truck washes	3 stacking spaces per stall
Veterinary services (other)	4 per doctor plus one per employee
Vocational, business or secretarial schools	1 per 100 feet of classroom space plus 1 per 250 sq. ft. of office space
Services and repairs (not otherwise classified)	1 per 250 sq. ft. gross floor area plus 1 per vehicle used in operation
Drive-thrus (not otherwise classified)	Stacking for 4 vehicles at each bay, window, lane, ordering station or machine in addition to use requirements
<b><u>Retail Trade</u></b>	
Bars, dance halls	1 per 3 persons in designed capacity of building plus 1 per employee on largest shift, on the same zone lot
Convenience stores	1 per 200 sq. ft. gross floor area plus 4 stacking spaces per side of each pump island
Department stores, food stores	1 per 200 sq. ft. gross floor area
Fuel oil sales	1 per employee on largest shift plus 1 per vehicle used in operations

Furniture, floor covering sales, agricultural product sales (not to include the sale of motor vehicles)		1 per 500 sq. ft. gross floor area
Motor vehicle, motorcycle or recreational vehicle sales or rental; manufactured home sales		5 spaces plus 1 per 10,000 sq. ft. of display area plus 1 per employee on the largest shift
Restaurants		1 per 4 seats plus 1 per employee on largest shift plus 11 total stacking spaces with minimum 5 spaces at or before ordering station
Retail sales (not otherwise classified)		1 per 200 sq. ft. gross floor area
Retail sales of bulky items (appliances, building materials, etc.)		1 per 200 sq. ft. gross floor area
Service stations, gasoline		3 per service bay plus 1 per wrecker or service vehicle plus 1 per employee on largest shift plus 4 stacking spaces per side of each pump island
Shopping centers		1 per 200 sq. ft. of nonstorage retail area
<b><u>Wholesale Trade</u></b>		
Market showrooms (furniture, apparel, etc.)		1 per 2,000 sq. ft. gross floor area
Wholesale uses		1 per employee on largest shift plus 1 per 200 sq. ft. of retail sales or customer service area plus 1 per vehicle used in operation
<b><u>Transportation, Warehousing and Utilities</u></b>		
Airport, bus, and train terminals		1 per 4 seats for waiting passengers plus 1 per employee on largest shift

Communication towers, demolition debris landfills, heliports, utility lines or substations		No required parking
Self-storage warehouses		1 space per 4 storage units
Transportation, warehousing and utility uses (not otherwise classified)		1 per employee of largest shift plus 1 per vehicle used in operation
<b><u>Manufacturing and Industrial Uses</u></b>		1 per employee on largest shift plus 1 per 200 sq. ft. of retail sales or customer service area plus 1 per vehicle used in operation

4. Parking for New Major Residential Subdivisions. Parking must be provided at the rate of 2.5 spaces per lot. Parking shall be designed such that at least 2 vehicles may be moved in and out of driveways without the need to move vehicles out of the way. Parking may be satisfied in multiple ways.
  - A. A double car parking pad may be installed with minimum dimensions of 20' x 20'.
  - B. A single car garage with a double car parking pad.
  - C. A combination of on-street and off-street parking with a minimum of one space provided on site.
  - D. Remote parking may be used to provide overflow parking for the full development.
  - E. If a garage is to be used as a required parking space, the developer shall demonstrate adequate HOA restrictions.
  - F. Driveways in major residential subdivisions shall be paved with concrete.

5. Combination of Required Parking Spaces

The required parking spaces for any number of separate uses may be combined in onelot or parking structure, but the required parking spaces assigned to one use may not be assigned to another use at the same time.

6. Lighting

Lighting shall conform to the requirements of Sec. 100.61.

7. Remote Parking

On all off-street parking lots, the required space shall be provided on the same plot with the use or on a lot separated there from by not more than four hundred (400) feet.

Where provision of required off-street parking for a building or other uses established subsequent to the adoption of this Section involves one (1) or more parcels or tracts of land that are not a part of the plot on which the principal use is situated, the applicant for a permit for the principal use shall submit with his application for a Development Permit an instrument duly executed and acknowledged, which subjects the parcels or tracts of land to parking uses in connection with the principal use for which it is made available. The applicant shall cause said instrument to be registered in the office of the Register of Deeds upon the issuance of a Development Permit.

Parking in one Zoning District in connection with a use not permitted in that District shall be permitted in accordance with the following:

Any use in any Zoning District with a lower number may park in any District with a higher number.

- |    |       |     |     |
|----|-------|-----|-----|
| 1. | RA-40 | 7.  | CBD |
| 2. | R-20  | 8.  | B-2 |
| 3. | R-10  | 9.  | TBD |
| 4. | RM-10 | 10. | HCD |
| 5. | R-MH  | 11. | I   |
| 6. | R-HD  | 12. | AP  |

In addition, any use located in one Zoning District which is also a permitted use in another Zoning District may also park in such other Zoning District in which the use is permitted.

8. Parking on Sidewalks. Vehicles may not be parked or stored on public sidewalks anywhere in the zoning jurisdiction of the town.
9. Parking Lot Improvement, Design and Location Requirements

All off-street parking lots for three (3) or more cars including exits, entrances, drives and parking areas, shall:

- a. Be designed to allow for traffic movement in accordance with the geometric design principles as stated above.
- b. Have direct physical access to a public street.
- c. Be so designed that all access to public street is by forward motion.
- d. Be paved and maintained with concrete, asphalt, stone, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights; be graded, properly drained, stabilized and maintained to prevent dust and erosion.
- e. Be continuously provided and maintained as long as the use which they serve exists.
- f. Any driveway connecting to a public street from a parking lot for six (6) or more cars shall be paved with a hard surface, such as asphalt or concrete, for the portion of the driveway within twenty (20) feet of the public street travel way.
- g. Parking is prohibited in the first three (3) feet adjoining the public street of the required front yard setback in all districts except the Central Business District. Such three (3) foot area shall be landscaped with a treatment as provided for in Sec. 100.60.
- h. No parking lot area or driveway shall be located in any required buffer area.
- i. No parking space shall be located within fifteen (15) feet of a multi-family dwelling unit.
- j. All off-street parking areas shall be separated from walkways, sidewalks, bikeways, streets or any dedicated right-of-way. To prevent vehicles from driving across these areas, except at an approved driveway approach, and to prevent parking or maneuvering vehicles from overhanging upon such areas, there shall be a six (6) inch raised curb or stop bar constructed between such areas and the parking area.
- k. Parking areas so designed to serve ten (10) or more vehicles may designate a maximum of twenty-five (25) percent of the space for use by compact cars only. These spaces shall be no smaller than eight (8) feet by eighteen (18) feet. These spaces shall be identified in a manner which will prohibit its occupancy by any larger vehicle.



- l. Parking areas shall provide internal vegetation in an amount equal to five (5) percent of the impervious surface area and a perimeter planting area. Such vegetation shall be in the form of islands or peninsulas and shall contain minimum vegetation in accordance with Sec. 100.60. Each island shall contain a minimum of thirty (30) square feet of soil or other permeable surface, shall not be less than five (5) feet in length, and shall be surrounded by a six (6) inch raised curb or stop bar. Required buffer yards, pursuant to Sec. 100.60 shall not be counted for meeting the five (5) percent requirement for interior landscaped areas.
- m. Parking aisles shall contain no more than fifteen (15) consecutive parking spaces without the introduction of an additional interior planted area, in order to avoid long, uninterrupted parking aisles. This requirement is not applicable if a single parking aisle abuts a required buffer yard or an interior landscaped area separates the aisle from a primary traffic lane.
- n. The ends of parking aisles shall be clearly separated and defined by interior planted areas when they abut and are perpendicular to a primary traffic lane. The use of interior planted areas at the end of parking aisles are not required when the aisles abut and are perpendicular to required buffer yards.
- o. Primary traffic lanes are to be clearly defined and shall not provide direct access from individual parking spaces or parking aisles.
- p. No access shall be provided from a secondary traffic lane into a primary traffic lane at any point closer to the street right-of-way than twenty (20) feet in addition to the required buffer yard.
- q. Mechanical equipment, dumpsters, delivery or service entrances, and similar site elements shall be screened with plant material, by fencing, and/or by site location in such a manner that their visual impact from adjacent street right-of-ways is minimal.
- r. Appropriate directional painting and/or traffic control signage shall be used to encourage reasonable vehicular flow. Stop signs shall be required at all points where traffic lanes exit a parking lot greater than 25,000 square feet in area into a public street, unless controlled by other devices. All internal and external traffic signs, markings and devices shall be clearly displayed and conform to North Carolina Department of Transportation standards.

- s. Primary traffic lanes shall be required as follows:
  - a. One (1) lane for each lot containing one hundred (100) to one hundred ninety-nine (199) parking spaces.
  - b. A minimum of two (2) primary lanes for lots containing in excess of two hundred (200) parking spaces.
  - c. Where the parking lot abuts two (2) or more streets, a minimum of one (1) primary lane shall exit the parking lot into each street.
  - d. When the front footage of any building exceeds two hundred fifty (250) feet, a fire lane shall be provided along this frontage. The fire lane shall not be considered as part of the traffic lane, shall be a minimum of ten (10) feet in width and shall be clearly marked.
- t. All off-street parking areas for buildings that are subject to the North Carolina State Building Code, Volume I, General Construction, shall comply with all of the requirements set forth therein including those for parking spaces for the physically handicapped.
- u. Driveways. No centerline of any entrance driveway leading from a major thoroughfare shall be closer than twenty-five (25) feet to a side lot line. Driveway centerlines on any one lot must be separated by at least fifty (50) feet.
- v. In the HCD, proposed parking lots shall be connected internally to lots on adjoining property within the HCD or TBD either by connecting to existing lots or by providing driveway stubs to adjoining property zoned TBD or HCD unless the Board of Commissioners finds such connection not to be practical.

#### 10. Off-Street Loading Requirements

Every structure or building used for trade, business or industry hereafter erected, except in the Central Business District, shall provide space as indicated herein for the loading, unloading and maneuvering space of delivery vehicles off of the street or public alley. Such space shall have access to a public alley, private driveway, or if such cannot reasonable be provided, to a public street. For the purpose of this Section, an off-street loading space (exclusive of adequate access drives and maneuvering space) shall have a minimum dimension of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

<u>Type of Use</u>	<u>Required Off-Street Loading Spaces</u>
Retail Business	1 space for each 5,000 square feet of gross floor area or fraction thereof, not to exceed 2 spaces
Wholesale and Industries	1 space for each 20,000 square feet of gross floor area or fraction thereof, not to exceed 4 spaces
Office and Institutions	1 space for each 50,000 square feet of gross floor area or fraction thereof, not to exceed 2 spaces

11. Nonconforming Parking Lots.

Many commercial businesses have been in operation before the adoption of zoning regulations, and they have outgrown their allocated parking space. The following parking requirements apply to these facilities.

- a. Parking shall not be allowed on public rights-of-way or sidewalks.
- b. The property owner or tenant shall ensure that mobility is maintained within the parking lot. If more than one row of parking is being used, a minimum of a 13' drive aisle must be maintained between rows.
- c. Parking lots shall be maintained with a smooth surface using as a minimum the materials with which they were designed. Handicapped parking shall be hard-surfaced and delineated.
- d. Parking areas may not be extended without submittal of a site plan and a permit from the town. To the greatest extent possible, the requirements of Section 9 above: Parking Lot Improvement, Design and Location shall be followed.
- e. Off-site parking may be used for overflow, provided the parking is not needed for another business or is permitted specifically for that use.

**Sec. 100.59 Sign Regulations**

1. Purpose. The purpose of this section is as follows.
  - A. To allow businesses, institutions, and individuals to exercise their right to free speech by displaying an image on a sign, and to allow audiences to receive such information.
  - B. To promote and maintain visually attractive residential, agricultural, retail, commercial, historic, open space and industrial districts.
  - C. To provide for reasonable and appropriate communication and identification for on premise signs in commercial and industrial districts in order to foster successful businesses.
  - D. To encourage the use of creative and visually attractive signs.

- E. To ensure that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian, bicycle and vehicular environment.
  - F. To protect property values.
  - G. To promote public health, safety, and welfare by avoiding conflicts between signs and traffic control devices, avoiding traffic hazards, and reducing visual distractions and obstructions.
  - H. To enable maintenance of rights-of-way and public property.
  - I. To protect and preserve the aesthetic quality and physical appearance of the town.
2. Definitions. As used in this ordinance, the following words, except where the context clearly indicates otherwise, are defined as follows. Where a sign type could be considered a subset of another type of sign, the most specific definition will control the regulatory standards that are applied.
- A. Air-Activated Signs, Moving Signs. Any temporary sign which in part or in total rotates, revolves or otherwise is in motion that is not a flag or temporary blade sign.
  - B. Animated Signs. Any electronic sign displaying flashing, intermittent or color changing light or lighting.
  - C. Awning. An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.
  - D. Balloon Signs, Inflatable Signs. Any air or gas-filled balloon, figure, or object attached by means of a rope or tether to a definite or fixed location.
  - E. Banner Signs. A temporary sign made of flexible materials and supported along more than one side or at two or more corners by staples, tape, wires, ropes, strings or other materials that are not fixed or rigid.
  - F. Blade Signs, temporary. A type of air-activated temporary sign, mounted on a pole perpendicular to the normal flow of traffic.
  - G. Blade Signs, Projecting Signs, permanent. A permanent projecting sign mounted on a building façade that is perpendicular to the normal flow of traffic.
  - H. Canopy. An architectural projection that provides weather protection, identity or decoration and is supported by the building to which it is attached and at the outer end by one or more stanchions attached to the ground. It is comprised of a rigid structure over which a covering is attached. If the stanchions are attached to the building, “Canopy” is indistinguishable from “Awning.”
  - I. Canopy Sign. A wall sign that is located on the roof, fascia, soffit or ceiling of a canopy.
  - J. Cornerstone. A ceremonial masonry stone (block) or replica set into a prominent location in the exterior wall of a building. The cornerstone is considered a structural component of the building and is not a sign.
  - K. Electronic Changeable Message. A permanent electronic sign with changeable copy, is programmable, and has a digital display.
  - L. Feather flags. See “blade signs, temporary.”

- M. **Flags.** Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device. May include federal, state and local flags as well as nongovernmental flags, but does not include temporary blade signs otherwise known as feather flags.
- N. **Free-Standing Permanent Signs.** Any permanent sign supported wholly or in part by some structure other than a building. Pole signs and ground-mounted signs are types of permanent signs.
- O. **Glare.** The sensation produced by luminance within the visual field that are sufficiently greater than the luminance to which eyes are adapted which causes loss in visual performance or visibility.
- P. **Government Signs.** A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights. Such signs may also include curbing marked with painted addresses when placed for 9-1-1 emergency location purposes by a governmental entity.
- Q. **Marquee.** A permanent, roofed structure attached to and supported by the building and projecting over public property. Marquees are part of the building. They are distinct from canopies and awnings as those structures are attached to the building but are not structurally part of the building.
- R. **Marquee Sign.** A wall sign mounted flat against the front face of the marquee and projecting no more than 12 inches from the face.
- S. **Monument Signs.** A free-standing sign where the base of the sign structure is on or within twelve inches of the ground.
- T. **Moving Signs.** See air-activated signs and animated signs.
- U. **Off-Premise Sign.** A sign placed upon a property on which there is no building.
- V. **People Sign, Human Billboard, Sign Walker, Sign Twirler.** A person who applies a sign to his or her person, or costume, who wears a sandwich board sign, who carries a sign, and who may wear a costume.
- W. **Pole Signs.** A sign that is mounted on a free standing pole or other support.
- X. **Portable Message Sign.** A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels.
- Y. **Projected Image Signs.** Visual images projected against structures by an external projection device, typically visible at night.
- Z. **Projecting Signs.** See "Blade sign, projecting signs, permanent."
- AA. **Roof Signs.** Signs placed on or above rooflines of buildings. Permanent building projections below the top roofline of a building are considered marquees. Signs attached below the roofline on a projection are considered canopies, awnings, or marquee signs.
- BB. **Sandwich Board Sign, A- Sign.** A type of portable message sign constructed in such a manner as to form an "A".

- CC. Sign. A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs not exposed to view from a street or public access area are not signs for the purpose of these regulations.
- DD. Snipe Signs. Signs placed upon or attached to any curb, sidewalk, utility pole, post, fence, hydrant, bridge, another sign or other surface, bench, street light, mailbox, or natural objects such as trees or rocks, located on, over or across any public street or public property.
- EE. Temporary Signs. Signs for which the entire structure is temporary or portable. Signs not intended as a permanent installation.
- FF. Utility Pole Signs. A type of snipe sign, typically made of cardboard, attached to public utility such as light poles.
- GG. Vehicle Message Sign. A type of portable message sign that is attached to or painted on an unregistered vehicle that is parked on or adjacent to any property where the principal use of the vehicle is to display the sign and not to be used for transportation.
- HH. Wall Signs. A sign mounted flat against and projecting no more than twelve (12) inches from the wall. Canopy, awning and marquee signs are considered to be types of wall signs.
- II. Window Signs. A sign affixed to the interior or exterior of a window, excluding merchandise so as to attract the attention of persons outside the building.
- JJ. Yard Signs (also known as road signs, lawn signs, election signs, real estate signs). A temporary sign generally designed with metal or wood supports designed to be inserted into a grassed or dirt surface.

3. Examples of Temporary Signs.



Figure 1 Blade Signs, Feather Flags



Figure 2 Sandwich Board Sign

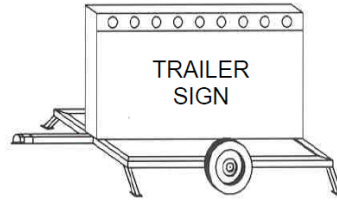


Figure 3 Portable Sign



Figure 4 Banner

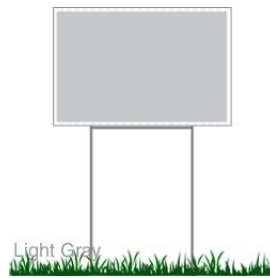


Figure 5 Lawn/Yard Sign

4. Examples of Permanent Sign Designs

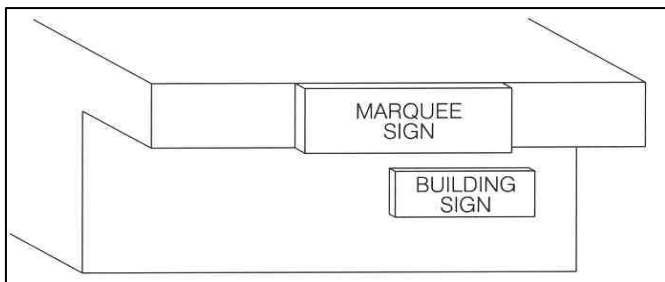


Figure 1 Building Signs

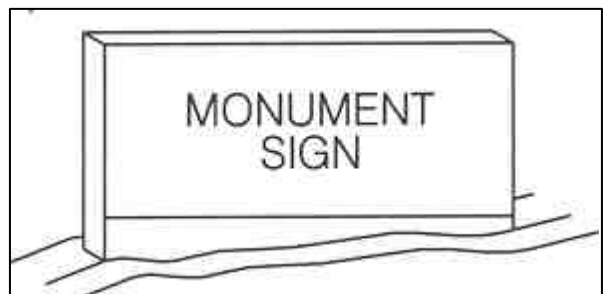


Figure 3 Monument/Ground Sign

5. Substitution Clause. Signs containing noncommercial speech are permitted anywhere that commercial signs are permitted, subject to the same regulations applicable to such signs.
6. Severability Clause. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this code is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the code.
7. Prohibited Signs. Unless such signs serve a governmental purpose as identified in 100.59.8, the following signs are prohibited in the Town of Carthage.
  - A. Roof Signs.
  - B. Snipe Signs, including utility pole signs except as allowed in the Agriculture Temporary Sign Overlay District.
  - C. Simulated public safety, warning or traffic signs.
  - D. Animated and Electronic Message Signs that change more frequently than every 8 seconds.
  - E. Motion signs including air-activated and balloon signs but not including temporary blade signs or signs allowed in residential districts.
  - F. Vehicle message signs.
  - G. Signs located within sight triangles of intersections.
  - H. Signs emitting glare that causes discomfort or pain or reduces visibility.
  - I. Flags consecutively strung together.
  - J. Obscene signs.
  - K. Off-premise signs greater than 32 square feet.
  - L. Pole signs.
  - M. Portable message signs.
8. Signs for Governmental Purposes. These regulations are not intended to and do not apply to governmental signs as defined in Section 100.59.2.P. The inclusion of “government” in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation.
9. Temporary Political Signs.
  - A. All political signs must be outside street right-of-way, or at least 3 feet from edge of pavement.
  - B. Political signs shall not interfere or obstruct safe sight distances at intersections.
  - C. Not to be placed on private property without consent of owner.
  - D. Political signs must not exceed 16 square feet, max height of 6 feet.
  - E. Cannot be placed until 30 days prior to beginning date of “one-stop” voting.
  - F. Signs may be placed 30 days prior to a run-off election or election day following a primary election and removed once again within 10 days after the election or run-off.



10. Temporary Sign Regulations by District

The following table reflects temporary signs allowed by district subject to time and manner regulations. “P” denotes the sign type is allowed. “X” denotes the sign type is not allowed. Sign types not included in the table are presumed to be disallowed unless addressed elsewhere in this article. Signs in the Agricultural Sign Overlay District shall meet the requirements of 100.59.11.C.

Table 10

Sign Types	RA-40	R-20	R-10	RM-10	RMH	RHD	CBD	B2	TBD	HCD	I	AP
Air Activated	P	P	P	P	P	P	X	X	X	X	X	X
Balloon	X	X	X	X	X	X	X	X	X	X	X	X
Banner	X	X	X	X	X	X	P	P	P	P	P	P
Blade/feather	X	X	X	X	X	X	X	P	P	P	X	P
Construction Fence Wraps	P	P	P	P	P	P	P	P	P	P	P	P
Flags	P	P	P	P	P	P	P	P	P	P	P	P
People	P	P	P	P	P	P	P	P	P	P	P	P
Portable Message	X	X	X	X	X	X	X	X	X	X	X	X
Projected Image	P	P	P	P	P	P	X	X	X	X	X	X
Sandwich Board	X	X	X	X	X	X	P	P	P	P	P	P
Utility Pole	X	X	X	X	X	X	X	X	X	X	X	X
Yard Signs	P	P	P	P	P	P	X	P	P	P	P	P
Window Signs	P	P	P	P	P	P	P	P	P	P	P	P

11. Number, duration and location of temporary signs. For the purposes of this section, the following districts are deemed to be residential districts: RA-40, R-20, R-10, RM-10, RMH, and RHD. All remaining zoning districts are deemed to be commercial districts.
- A. Residential Districts: The following numbers of signs and their allowed duration is identified below. Temporary signs not listed below are not allowed.

Table 11.1

Sign Type	Number	Duration	Size	Permit Required
Air Activated	3	One month, continuous. Not more than 3 months per year.	Unlimited	No
Construction Fence Wrap	1 per fence	*	After 24 months, maximum size is 24 square feet*	Permit required 24 months from installation of sign*
Flags	3	Unlimited.	Maximum of 15 square feet each not to exceed 20 feet in height.	No
Projected Image	1	1 month, continuous. Not more than 3 months per year.	Shall not exceed the size of the wall space against which it is projected.	No
People Signs	1	Unlimited.	Unlimited	No
Yard Signs	1 per 5 acres or portion thereof	Unlimited.	Maximum of 2 square feet for properties less than 5 acres in size. Maximum of 32 square feet for properties greater than 5 acres in size.	No
Window Signs	1 per residence	Unlimited.	1 Square foot	No

\*Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the town may regulate the signage but must continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required. N.C.G.S 160D-107; 109; 406; 702; 704; 705; 903; 908.

B. Commercial Districts. The following numbers of signs and their allowed duration is identified below. Temporary signs not listed below are not allowed.

Table 11.2

Sign Type	Number	Duration	Size	Permit Required
Banner	1 per lot	Maximum 30 days continuous. No more than 90 days per year.	24 square feet	Yes
Blade, feather	1 per lot	Maximum 30 days continuous. No more than 90 days per year.	14' tall, 27 'wide	Yes
Construction Fence Wrap	1 per fence	*	After 24 months, maximum size is 24 square feet*	Permit required 24 months from installation of sign*
Flags	1	Maximum 30 days continuous. No more than 90 days per year.	24 square feet each not to exceed 25 feet in height.	Yes
People	No Limit	Unlimited	Unlimited	No
Projected Image	1	1 month, continuous. Not more than 90 days per year.	Shall not exceed the size of the wall space against which it is projected.	Yes
Sandwich Board	1 per business on property	Daily. Must be removed at the end of each business day	Maximum size of 3' x 5' per side	No
Yard Signs	1 per lot or 1 per 400 linear feet of frontage.	30 continuous days	4 square feet	No
Window Signs	1 sign per window per business per road frontage.	Unlimited	Shall not cover more than 33% of each individual window inclusive of internal and external signage	Yes

\*Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the town may regulate the signage but must continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required. N.C.G.S 160D-107; 109; 406; 702; 704; 705; 903; 908.

- C. Agricultural Sign Overlay District. A linear temporary Agricultural Sign Overlay District is established along Hwy 15/501 from Savannah Garden Drive south to 250 feet south of the intersection of S. McNeill Street and Hwy 15/501. The width of the district is the immediate lot or parcel adjacent to both sides of the road. The purpose of this district is to recognize the difficulty in promoting seasonal agricultural products for sale by roadside stands due to lot sizes for roadside signs and topography. Properties located adjacent to Hwy 15/501 in this district shall comply with the regulations of temporary signs in Commercial Districts with the exception of the following.

Table 11.3

Sign Type	Number	Duration	Size	Permit Required
Yard Signs	3 per lot	Unlimited*	2 square feet	No
Snipe sign	Unlimited on mailbox only subject to acceptance by post office. Not allowed elsewhere on property.	Unlimited	1 square foot each	No

\*Yard Signs shall be removed when businesses close for the season. Yard signs are subject to regulation by NCDOT. It is the responsibility of the sign owner to demonstrate to NCDOT that their requirements have been met.

- D. Temporary yard signs, blade (feather) signs and flags must be placed at least thirty feet (30’) from the centerline of the road that divides the lane of traffic closest to the property boundary. The purpose is to ensure that the signs are not in the way of vehicles mowing rights-of-way.
12. Permanent Signs. Permanent signs in all commercial districts and permanent ground-mounted signs for subdivisions, apartment complexes, mobile home parks or neighborhoods are required to have a permit prior to installation. All other permanent signs are not required to have a permit.

A. Residential Districts. The following permanent signs are permissible in the RA-40, R-20, R-10, RM-10, RMH, and RHD residential districts.

- a. Wall signs. 1 wall sign per structure is allowed maximum of 1 square foot in size. No permit is required.
- b. Ground-Mounted Signs. 1 ground-mounted sign is allowed per lot, maximum of 2 square feet in size. No permit is required.
- c. Ground-Mounted: Subdivision, Apartments, Mobile Home Parks or Neighborhood. 1 ground mounted sign to be placed at the entrance to subdivisions, apartment complexes, mobile home parks or established neighborhoods not to exceed 32 square feet in size per side per face for a total of 64 square feet.

B. Commercial Districts.

The following table reflects permanent signs allowed by commercial district. “PwP” denotes the sign type is allowable with a permit. “P” denotes the sign type is allowable without a permit. “X” denotes the sign type is not allowed. Sign types not included in the table are presumed to be disallowed unless addressed elsewhere in this Article.

Table 12.1

Sign Types		CBD	B2	TBD	HCD	I	AP
<b>Building:</b>							
	Wall	PwP	PwP	PwP	PwP	PwP	PwP
	Marquee	PwP	PwP	PwP	PwP	PwP	PwP
	Canopy	PwP	PwP	PwP	PwP	PwP	PwP
	Awning	PwP	PwP	PwP	PwP	PwP	PwP
<b>Ground-Mounted:</b>							
	Monument	X	x	PwP	PwP	PwP	PwP
	Electronic Messaging*	X	x	PwP	PwP	PwP	PwP
	Additional SF Allowed and Amount	P 10 SF	P 10 SF	P 15 SF	P 15 SF	P 15 SF	P 15 SF

\*Animation and special effects shall not be used when changing the message on an electronic message sign.

a. Building Signs.

- i. The area of any sign located on a wall of a structure may not exceed fifty (50) percent of the total surface area of the wall on which the sign is located.
- ii. Whenever a sign permit is requested for a property that includes more than one business, the applicant shall identify the total amount of signage in use per building.

- b. Ground Signs. Ground signs shall be based on the frontage of the property on which they are located

Table 12.2

Linear Feet of Lot Frontage	Maximum Sign Area	Setback From Side Property Lines	Setback from Edge of Rights-of-Way
Less than 200 Feet	20 Square Feet	10 feet	12 feet
200 to 299 Feet	50 Square Feet	10 feet	12 feet
300 or More	75 Square Feet	10 feet	12 feet

- i. Each property is allowed one principal sign that is a monument, electronic, or message sign.
- ii. Each property is allowed a maximum of three (3) signs, temporary and principal signs.
- iii. In addition to the maximum sign area listed above for the principal ground sign, additional square footage is allocated for additional ground signs as shown in Table 12.1 above. Examples of this type of signage would be a directional sign, entrance, exit, etc.
- iv. A second ground sign per frontage is allowed for properties with two street frontages subject to the Table 12.2 above.

15 Illumination.

- a. Illuminated signs are permitted only on non-residential properties, or where approved as part of unified signage in a Planned Development approved through Conditional Zoning.
- b. Illuminated signs erected in a commercial district contiguous to a residential district shall be so shielded or directed so that light brightness shall not exceed one (1) foot-candle at the property boundary.
- c. No illumination or glare shall be emitted directly onto a public street or roadway so as to constitute a hazard or impediment to motorist or public safety.
- d. No revolving or rotating beam or beacon of light shall be permitted as part of any sign.
- e. Flashing signs and flashing lighting shall not be permitted upon a sign.
- f. Electronic message signs are allowed where permitted provided the message does not change more frequently than every eight (8) seconds and the message completes the change within 2 seconds. Only one electronic message sign per lot is allowed.
- g. No exposed reflective or incandescent bulb which exceeds eleven (11) watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

- h. Tube lights on the outside of windows are not allowed. Tube lights on the inside of windows are allowed, but are limited to the maximum window coverage of twenty-five (25) percent. They may not flash.
- 16 Signs Regulated by Other Agencies. It is the responsibility of the sign owner to ensure that the requirements of signs regulated by other agencies, such as but not limited to NCDOT and the Moore County Board of Elections, are satisfied. It is not the intent of this ordinance to regulate the standards of those agencies.
- 17 Master Sign Plan for Subdivisions and Conditional Zoning Developments. A Master Sign Plan shall be approved for all subdivision developments and conditional zoning approval process by the Board of Commissioners. The plan shall substantially conform to the requirements of Section 100.59, Sign Regulations with the overall objective being unified signage. The Board of Commissioners may exercise flexibility in sign placement as part of the approval process.
- 18 Discontinuation of use. When a sign ceases use, the support structure may remain as long as it is in good condition and does not present a threat to public health, safety or welfare. Electronic signs are to be turned off. Sign faces shall either be reversed to the blank side or painted a solid color. A boot or sock may be used to cover the sign face for a period not to exceed six months.

**Sec. 100.60 Buffer yards/Landscaping Requirements**

- 1. Buffer yards: general
  - A. Buffer yards are a combination of land and physical barriers such as fencing, plant material and earthen berms which separate various land uses and street rights-of-way. Their purpose is to create a better quality of living for the community by encouraging the preservation of existing vegetation and stabilize the environment’s ecological balance, to establish proper separation between land uses, and to help reduce the negative impact of noise, trash mitigation, odors, overcrowding, traffic, lack of privacy and visual blight when incompatible land uses adjoin one another.
  - B. The provisions contained in the buffer yard requirements shall not apply to those uses located within the CBD zoning district, or to single family dwellings, manufactured homes on individual lots, or to two family dwellings (duplexes).
- 2. Landscaping Requirements
  - A. Landscaping requirements are stated in terms of the width of the buffer yard and the number of plant units required per each one hundred (100) linear feet of buffer yard. The widths listed must be maintained along all street rights-of-way and along all property lines.

<u>Lot Size</u>	<u>Buffer Yard Width</u>	<u># of Plant Units per 100 Linear Ft of Buffer Yard</u>
Less than 25,000 SF	4	4 shrubs or trees
25,000 to 175,000 SF	6	6 shrubs or trees
Over 175,000 SF	10	8 shrubs or trees

1. Trees or shrubs may be spaced no more than fifty (50) feet apart.
2. One large tree shall be planted for every fifteen (15) parking spaces.
3. A buffer yard width of ten (10) feet is required if a lot abuts a residential zoning district.
4. The required buffer yard width may be reduced to five (5) feet if a fence is provided.
5. Existing landscaping may be used, if located within the required buffer yard width.

#### B. Seeding

All buffer yard areas that are not landscaped shall be seeded with lawn or prairie grass unless ground cover is already established.

#### C. Encroachment:

Among other things, buffer yards may not be encroached upon by vehicular areas (except common access driveways and parking lots), buildings, service walkways, exterior storage, dumpsters or mechanical equipment unless otherwise provided. Encroachment by storm water detention ponds may occur subject to the approval of the Town of Carthage. Exterior lighting may project three (3) feet into required buffer yards.

#### D. Recreational Use of Buffer yard

A buffer yard may be used for passive recreation; it may contain greenway, pedestrian, bicycle, or equestrian trails, provided that: no plant material is eliminated, the total width of the buffer yard is maintained and all other regulations of the zoning ordinance are met. In no event, however, shall active recreational uses be permitted in buffer yards.

#### E. Easement

No vegetative screening or barriers required by this section shall be placed on property subject to utility or drainage easements without the written consent of the Town and the easement holder.

#### F. Future Thoroughfare



Required landscaping materials, fencing, and berms shall not encroach within future thoroughfare right-of-way.

G. Shopping Centers, Condominium/Townhouse, Multifamily Group, and Planned Unit Developments.

Buffer yards are required only along exterior property lines of the project; however, buffer yards are required along all property lines of out parcels that have direct access onto a public street.

3. Maintenance of Buffer yard Areas

- A. The property owner shall be responsible for maintaining all vegetation required by this Section in a healthy condition. Any dead, unhealthy, or missing vegetation shall be replaced upon written notice of non-compliance by the Administrator to insure compliance with all buffer yard requirements. Replacement must occur upon notification by the Administrator of any dead, unhealthy, or missing vegetation and shall be planted in accordance with the provisions of this section. Replacement shall occur at the earliest suitable planting season.
- B. If at the time of the request for a certificate of occupancy, the required buffer yard vegetation is not in place due to the unavailability of plant material, then the developer/owner may obtain a temporary certificate of occupancy from the Administrator. Such temporary certificate of occupancy shall be limited to thirty (30) days and may be renewed not more than three (3) times.

1. Non-conforming Buffer yards

- A. The provisions contained in this section shall not apply to existing structures that do not conform to the buffer yard required by this section. Structures that do not comply with the buffer yard required by this section shall be subject to the non-conforming provisions contained in subsection (C) below.
- B. Subject to subsection (A) above, property that does not comply with the buffer yard requirements contained in this section shall meet the provisions of this section.
- C. When there is noncompliance with the buffer yard required by this section, and when an applicant files the necessary forms for a development permit, certificate of occupancy, or business license, one (1) of the following two (2) situations shall apply:
  - 1. Buffer yard regulations are not applicable. This provision applies when:
    - a. There is a change of land use not involving an expansion of twenty-five (25) percent or more of the existing floor area; or
    - b. Expansions are proposed which singularly or collectively are twenty-five percent (25%) or less of the existing floor area, existing improved parking areas, or other impervious area of the existing use at the time the ordinance becomes applicable.

2. A portion of the prescribed buffer yard will be required in accordance with subsection (D) below when:

Proposed expansions are singularly or collectively more than twenty-five (25%) percent of the existing floor area, existing improved parking areas, or other existing impervious areas. The provisions of this section shall in no way be deemed to require the removal of existing structures, buildings, improved parking areas, mechanical equipment, and lighting, provided, however, all other encroachments including but not limited to concrete islands and the like shall be removed.

- D. When a portion of the prescribed buffer yard is required based on subsection (C) (2) above, the following shall suffice for compliance with this section.

1. Where seventy-five percent (75%) or more of the required buffer yard width is available, all physical barriers and plant material shall be installed.
2. Where less than seventy-five percent (75%) of the required buffer yard width is available, all physical barriers and a percentage of plant material equal to that of the land areas available shall be installed.

#### **Sec. 100.61 Outdoor Lighting**

Outdoor lighting fixtures shall be installed in a manner to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Unless otherwise permitted, all lighting shall be beamed downward and away from neighboring property and public streets. Glare or hazardous interference are situations where the sensation produced by luminance within the visual field is sufficiently greater than the luminance to which the eyes are adapted, such as to cause annoyance, discomfort, or loss in visual performance and visibility. In addition, outdoor lighting shall be constructed and operated to minimize the spillover of obtrusive light onto property outside the boundaries of the property on which the lighting is sited which could result in annoyance, discomfort or distraction to persons on the other property. Therefore, all outdoor lighting fixtures, except for temporary and emergency lighting, that would otherwise cause glare or obtrusive spill over shall be shielded, recessed or otherwise oriented or treated in such a way to prevent glare or obtrusive spill over. An outdoor lighting scheme shall be included in all site plan submittals and in general all outdoor lighting shall be beamed down and away from adjoining property and streets unless a modification is approved by the Board of Commissioners. Furthermore, all outdoor lighting fixtures, including display lights, shall be turned off after close of business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum necessary.

#### **Sec. 100.62 Appearance Standards\***

The following appearance standards shall apply to structures identified below with the exception of buildings subject to the *N.C. Residential Code for One and Two Family Dwellings* such as single family, duplex homes and townhouses built to the single family code. Design standards may only apply to those structures if 1) the property is located within a designated historic district, 2) it is within an historic district on the National Register, 3) the structure is designated as a local, state or national landmark, 4) when

directly and substantially related to safety codes, 5) the structure is a manufactured home, or 6) where required to satisfy conditions of participation in the National Flood Insurance Program (NFIP).

Design Standards developed and agreed to by the owners of all property within a development may be imposed as part of and in the course of seeking a zoning amendment or a zoning subdivision or other development regulation approval such as Conditional Zoning, planned unit developments or development agreements. An explicit acknowledgement from all owners of affected property that the standards are voluntarily accepted must be verbally agreed to when placed on the record in a public meeting or agreed to in writing.

- A. Structures within the CBD, Central Business District, shall be constructed on all sides with masonry, stone, or stucco materials which match or approximate materials currently in use in the CBD district. Frame materials may be used within the CBD district, except where prohibited within the primary fire district by Town ordinance or the North Carolina Building Code.
- B. Structures located within the B-2, TBD, R-HD and Historical districts shall be constructed of masonry, stone, stucco or frame materials, including aluminum, vinyl or Masonite siding, with the exception of mobile homes on an individual lot in the RA-40 zoning district. Metal buildings may be constructed if covered completely along the front and all sides with brick veneer or stucco materials. Uncovered metal may be used on the rear of a building if completely screened from view from any adjacent public or private street.
- C. Structures located within the I and AP districts may be constructed of any material currently permitted by the North Carolina Building Code, unless located within 200 feet of a CBD district, or facing a state or federal aid highway, in which case metal buildings may be constructed only if covered completely along all sides facing a public or private street with brick masonry type veneer materials.
- D. Structures located within the HCD shall comply with the following standards:
  - 1. Building elevations fronting or visible from public streets shall be clad with approved masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
  - 2. All walls not visible from a public right-of-way may be constructed of split-faced block, bricks, wood or vinyl siding or approved metal paneling but shall be painted to match the overall color scheme of the rest of the building.
  - 3. Trailers (mobile units) may not be used as permanent highway commercial buildings.

### **Sec. 100.63                    Flood Damage Prevention Standards**

The Flood Damage Prevention Ordinance adopted by the Town of Carthage shall serve as the Flood Damage Prevention Standards for this Ordinance, provided, in no case shall a development be permitted unless it is in conformance with the standards of this Ordinance.



**FLOOD DAMAGE PREVENTION ORDINANCE FOR THE TOWN OF CARTHAGE, NORTH CAROLINA.**

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

**SECTION A. STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Chapter 160D; and Article 1 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of Commissioners of the Town of Carthage, North Carolina, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2008 does ordain as follows:

**SECTION B. FINDINGS OF FACT.**

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

**SECTION C. STATEMENT OF PURPOSE.**

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

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

**SECTION D. OBJECTIVES.**

The objectives of this ordinance are:

- (1) **to protect human life and health;**
- (2) **to minimize expenditure of public money for costly flood control projects;**
- (3) **to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;**
- (4) **to minimize prolonged business losses and interruptions;**
- (5) **to minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;**
- (6) **to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and**
- (7) **to ensure that potential buyers are aware that property is in a Special Flood Hazard Area.**

## **ARTICLE 2. DEFINITIONS.**

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

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

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

“Appeal” means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

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

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”

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

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

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

“Building” see “Structure”

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

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

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

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

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

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

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

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

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

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

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

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

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

“Flood Prone Area” see “Floodplain”

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

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

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

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

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

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



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

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

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

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

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

“Historic Structure” means any structure that is:

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

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

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

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

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and contains a HUD label. The term “manufactured home” does not include a “recreational vehicle”.

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

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

“Mean Sea Level” means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the original version of the community’s Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

“Non-Encroachment Area” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map for the area.

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

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

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

- (a) built on a single chassis;
  - (b) 400 square feet or less when measured at the largest horizontal projection;
  - (c) designed to be self-propelled or permanently towable by a light duty truck; and
  - (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use;
- (e) this definition includes vehicles such as travel trailers, motor homes, and campers.

“Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor, excluding the foundation system, for structures within all Special Flood Hazard Areas.

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

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

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

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

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

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

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

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

improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

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

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

### **ARTICLE 3. GENERAL PROVISIONS.**

**SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.**

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

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

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Moore County dated January 2, 2008 that apply to the jurisdiction of the Town of Carthage, which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Moore County Unincorporated Area, dated December 15, 1989, Town of Carthage, dated October 17, 2006.

**SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

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

**SECTION D. COMPLIANCE.**

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

**SECTION E. ABROGATION AND GREATER RESTRICTIONS.**

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

**SECTION F. INTERPRETATION.**

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

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.

**SECTION G. WARNING AND DISCLAIMER OF LIABILITY.**

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

#### **SECTION H. PENALTIES FOR VIOLATION.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall subject the offender to civil penalties. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent The Town of Carthage from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **ARTICLE 4. ADMINISTRATION.**

##### **SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Development Administrator or his/her designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance.

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

- (1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:
  - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
    - i) ***the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;***
    - ii) ***the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;***
    - iii) ***flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;***
    - iv) ***the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;***

- v) ***the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C(11 & 12); or Article 5, Section D;***
  - vi) ***the old and new location of any watercourse that will be altered or relocated as a result of proposed development;***
  - vii) ***certification of the plot plan by a registered land surveyor or professional engineer.***
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- i) ***Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;***
  - ii) ***Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and***
  - iii) ***Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;***
- (c) If floodproofing, a Floodproofing Certificate (*FEMA Form 81-65*) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- i) ***The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);***
  - ii) ***Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(c), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;***
- (e) Usage details of any enclosed areas below the regulatory flood protection elevation.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- (g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Article 5, Sections B(6 & 7) of this ordinance are met.

- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the floodplain development permit.
  - (b) The Special Flood Hazard Area determination for the proposed development per available data specified in Article 3, Section B.
  - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
  - (d) The regulatory flood protection elevation required for the protection of all public utilities.
  - (e) All certification submittal requirements with timelines.
  - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
  - (g) The flood openings requirements, if in Zones A, AO, AE or A1-30.
- (3) **Certification Requirements.**
- (a) Elevation Certificates
    - i) ***An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.***
    - ii) ***An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. . Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.***



iii) ***A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.***

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Article 5, Section B(3).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
  - i) ***Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);***
  - ii) ***Temporary Structures meeting requirements of Article 5, Section B(7); and***
  - iii) ***Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B(8).***

## **SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

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

- (1) **Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.**
- (2) **Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.**
- (3) **Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).**
- (4) **Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.**
- (5) **Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section E are met.**
- (6) **Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Article 4, Section B(3).**
- (7) **Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Article 4, Section B(3).**
- (8) **Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Article 4, Section B(3).**
- (9) **When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 4, Section B(3) and Article 5, Section B(2).**
- (10) **Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.**
- (11) **When Base Flood Elevation (BFE) data has not been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(2)(b), in order to administer the provisions of this ordinance.**
- (12) **When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.**

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

#### **SECTION D. CORRECTIVE PROCEDURES.**

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

#### **SECTION E. VARIANCE PROCEDURES.**

- (1) The Board of Adjustment as established by The Town of Carthage, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:

- (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (b) functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages.
  - (c) any other type of development, provided it meets the requirements stated in this section.
- (4) **In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:**
- (a) the danger that materials may be swept onto other lands to the injury of others;
  - (b) the danger to life and property due to flooding or erosion damage;
  - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) the importance of the services provided by the proposed facility to the community;
  - (e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
  - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) the compatibility of the proposed use with existing and anticipated development;
  - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) **A written report addressing each of the above factors shall be submitted with the application for a variance.**
- (6) **Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.**

- (7) **Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.**
- (8) **The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.**
- (9) **Conditions for Variances:**
  - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.
  - (e) Variances shall only be issued upon:
    - i) ***a showing of good and sufficient cause;***
    - ii) ***a determination that failure to grant the variance would result in exceptional hardship; and***
    - iii) ***a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.***

**ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

**SECTION A. GENERAL STANDARDS.**

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

- (1) **All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.**
- (2) **All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.**

- (3) **All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.**
- (4) **Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.**
- (5) **All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.**
- (6) **New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.**
- (7) **On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.**
- (8) **Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.**
- (9) **Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.**
- (10) **New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in a special flood hazard are. No variances shall be granted for these facilities. A structure or tank for chemical or fuel storage incidental to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Article 4, Section B(3) of this ordinance.**
- (11) **All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.**
- (12) **All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.**
- (13) **All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.**
- (14) **All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.**

- (15) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

## **SECTION B. SPECIFIC STANDARDS.**

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

(1) **Residential Construction.**

(a) **New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.**

(b) Subdivisions approved after the effective date of this Ordinance shall not plat lots for residential development located within the Special Flood Hazard Areas. Lots that will contain common uses such as club houses, golf courses etc. are permitted to be located within the Special Flood Hazard Area as long as the development that occurs on them meet all other applicable regulations of this ordinance.

(2) **Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance. Structures located in A, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section G(2). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational and maintenance plans..**

(3) **Manufactured Homes.**

- (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis



thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4)(a), (b), and (c)..
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

(4) **Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:**

- (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (c) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;
  - i) ***A minimum of two flood openings on different sides of each enclosed area subject to flooding;***
  - ii) ***The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;***
  - iii) ***If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;***
  - iv) ***The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;***
  - v) ***Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and***
  - vi) ***Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.***

- (5) **Additions/Improvements.**
- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - i) ***not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.***
    - ii) ***a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.***
  - (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - i) ***not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.***
    - ii) ***a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.***
- (6) **Recreational Vehicles.** Recreational vehicles shall either:
- (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
  - (b) meet all the requirements for new construction.
- (7) **Temporary Non-Residential Structures.** Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;
- (a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
  - (b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - (c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

- (d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
  - (e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) **Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:**
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
  - (b) Accessory structures shall not be temperature-controlled;
  - (c) Accessory structures shall be designed to have low flood damage potential;
  - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - (e) Accessory structures shall be firmly anchored in accordance with Article 5, Section A(1);
  - (f) All service facilities such as electrical shall be installed in accordance with Article 5, Section A(4); and
  - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Article 5, Section B(4)(c)..

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

**SECTION C. RESERVED.**

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

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

- (1) **No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.**
- (2) **The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:**

- (a) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
- (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
- (c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Article 3, Section B to be utilized in implementing this ordinance.
- (d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other sources as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

**SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

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

- (1) **Standards outlined in Article 5, Sections A and B; and**
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.**

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

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

- (a) it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
  - (b) a Conditional Letter of Map Revision has been approved by FEMA. A Letter of Map Revision must also be obtained upon completion of the proposed encroachment.
- (2) **If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.**
  - (3) **No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:**
    - (a) the anchoring and the elevation standards of Article 5, Section B(3); and
    - (b) the no encroachment standard of Article 5, Section F(1).

#### **SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).**

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

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

#### **ARTICLE 6. LEGAL STATUS PROVISIONS.**

##### **SECTION A. SEVERABILITY**

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

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

The Special Flood Hazard Areas are those identified under the Cooperating Technical State agreement between the State of North Carolina and FEMA in its Flood Insurance Study for Moore County dated October 17, 2006 and the accompanying Flood Insurance Rate Map Panels for the Town of Carthage (8564J, 8565J, 8567J, 8568J, 8574J, 8575J, 8576J, 8586J, 8588J), which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Moore County Unincorporated Area, dated December 15, 1989. Town of Carthage, dated October 17, 2006.

**SECTION C. EFFECTIVE DATE.**

This ordinance shall become effective upon adoption.

**SECTION D. ADOPTION CERTIFICATION.**

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the Board of Commissioners of the Town of Carthage, North Carolina, on the \_\_\_\_ day of \_\_\_\_\_, 2008.

WITNESS my hand and the official seal of the Town of Carthage, this the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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*Melissa P. Adams, CMC Town Clerk*

**Sec. 100.64**

**Site-Specific Vesting Plan**

- A. A site plan showing the proposed development must be approved by the Board of Commissioners in accordance with this section before a development permit may be issued. The following activities shall be exempt from site plan review provided that sufficient information is presented to the Administrator to determine compliance with the provisions of this Ordinance:
  - 1. One and two-family dwellings;
  - 2. Temporary uses as regulated herein;
  - 3. A change in use which does not:
    - a. Require any physical changes to the building exterior or property;
    - b. Require a change in utility infrastructure;
    - c. Require a change in street or sidewalk layout.
- B. The requirements for submittal of a site plan are found in Appendix A under Mapping Requirements.
- C. Upon receipt of a qualified and complete site plan application the Administrator shall submit the plan to the Planning Board for review and recommendation to the Board of Commissioners at the Planning Board's next regular meeting occurring at least ten (10) days after receipt of the application. Failure of the Planning Board to make a recommendation to the Board of Commissioners within sixty (60) days of first consideration shall be considered a favorable recommendation.
- D. The Administrator shall place the Site Plan on the next regularly scheduled meeting of the Board of Commissioners occurring at least ten (10) days after the Planning Board's recommendation. The Board of Commissioners shall review the Site Plan and either approve, approve with conditions, reject the site plan, or refer the plan back to the Planning Board for further consideration. If the Board of Commissioners rejects a site plan, then the reasons therefore shall be stated in the record of action on the plan.

The Board of Commissioners may approve a site plan only if it meets the standards and requirements set forth in this Ordinance and provides adequate public facilities and improvements as provided for herein.

The subdivision standards contained in Sec. 100.65 shall serve as the basic standards for site plan development along with the specific standards set forth in the Special Requirement for the use or uses.

- E. Approval of the site plan and final construction drawings shall authorize the applicant to proceed with any applications for permits and approvals required in order to develop the property in conformity with the approved site plan. A permit, certificate, or other approval may be issued by the Town only if it conforms to the approved site plan and final construction drawings.

An approved site plan shall become null and void if the applicant has failed to make substantial progress on the site within two (2) years after the date of approval by the Board of Commissioners. Substantial progress means at least one-half (1/2) of the gross floor area of the site-planned development must be completed within the first two (2) years. The entire site must be completed within five (5) years of the first approval date of the site plan. Failure to complete construction by these deadlines automatically voids the undeveloped portions of the site plan unless the Board finds that all of the following have been met:

1. A written request for extension has been made to the Board at least thirty (30) days before the expiration of the approved site plan;
2. Unconstructed portions of the site plan conform to all Ordinances, Policies and Plans of the Town in effect at the time of the requested extension.

The Board may grant a single, one (1) year extension of this time limit, provided that the conditions above have been met.

- F. A development containing 25 acres or more, which is known as a multi-phased development, will adhere to a submittal process for development permit approval in more than one phase. It will also be subject to a master development plan with committed elements showing the type and intensity of use of each phase. Such plans are vested for a period of seven (7) years.

## **Sec. 100.65                    Subdivision Standards**

### **Sec. 100.65-1**

The purpose of this section shall be to establish procedures and standards for the subdivision of land within the jurisdiction of the Town of Carthage, and to provide for orderly growth in a manner and under conditions that facilitate the adequate provision of streets, water, sewage disposal, and other considerations essential to public health, safety, and the general welfare.

### **Sec. 100.65-2 Plats shall be required on any subdivision of land**

Plats shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.



Four types of Subdivisions:

1. Exempt
2. Minor
3. Minor,  
Expedited  
Review
4. Major

**Sec. 100.65-3 Exemptions to Subdivision Regulations**

- A. Applicability. The following activities are not subject to the subdivision regulations of this Ordinance:
1. Combination / Recombination. The combination or recombination of portions of lots if the total number of lots is not increased and the resultant lots are equal to or exceed zoning requirements.
  2. Divisions Greater Than 10 Acres. The division of land into parcels greater than 10 acres, measured from the property lines, if no street right-of-way public dedication is involved (not including private streets or access easements to lot owners or a homeowner's association.).
  3. Public Acquisitions / Right-of-Way. The public acquisition by purchase of strips of land for widening or opening street rights-of-way or for public transportation system corridors.
  4. Two into Three Lots. The division of a tract in single ownership the entire area of which is no greater than 2 acres into not more than 3 lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed zoning requirements, including but not limited to, minimum lot dimensional standards, as detailed in this Ordinance. *(Note: "Single ownership" refers to all of the contiguous land owned by the qualifying owner does not exceed two acres.)*
  5. Estate Exclusion. The division of land among heirs in order to settle an estate by a probated will or by order of a court of jurisdiction in the settlement of a decedent's estate or in accordance with interstate succession under Chapter 29 of the General Statutes. *(Note: Unless such lots meet the standards of this Ordinance, a building permit shall not be issued.)* A copy of the will or order shall be submitted to the Administrator.
  6. Court Ordered Survey. The division of land pursuant to an Order of the General Court of Justice. A copy of the court order shall be submitted to the Administrator.
  7. Easement Plats. Access and utility easements may be platted and recorded as exemptions from subdivision regulations. Access easements shall be a minimum 20 feet in width pursuant to the NC Fire Code.
  8. Non-occupied Facilities. (Examples: Utility substations, septic tank lot when authorized by Moore County Environmental Health, family cemetery lots, dock access.) Individual lots are exempt from the minimum dimensional standards. All lots must be accessible by road, by easement or from the adjacent lot with which it is associated.

- B. Exempt Plat Submittal Requirements. The exempt plat shall be submitted in conformance with: (1) all applicable requirements zoning requirements, including but not limited to the minimum lot dimensional standards of the underlying zoning district, (2) NCGS 47-30, including but not limited to the applicable information required in Section 100.65-13 and (3) applicable statements required in Section 100.65-16
- C. Action by the Administrator. The Administrator shall render a decision within 14 working days after receipt of the completed plat and associated documents. If the subdivision is disapproved, the Administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.
- D. Expiration of Plat Approval. Approval of an Exempt Subdivision plat is contingent upon the plat being recorded within 60 days after the date the plat was signed by the Administrator. Failure to record the approved plat within the 60-day period shall render the plat null and void.
- E. Appeal. Final action on an Exempt Subdivision plat by the Administrator may be appealed to the Board of Adjustment.

**Sec. 100.65-4 Minor Subdivisions**

- A. Applicability. A Minor Subdivision is a subdivision that:
  1. Creates a maximum of 4 lots, including the residual or parent lot, and/or any property within 500 feet from the original property boundaries, for a period of 3 years;
  2. Does not require any new public or private street right-of-way to be constructed, expanded, or dedicated;
  3. Fronts an existing, approved public or private street right-of-way;
  4. Does not require a variance or waiver from any of the requirements of this Development Ordinance; and
  5. The lots are not subdivided off of an easement.
  
- B. Flag Lots. A flag lot is a lot that in its shape resembles a flag on a pole, where the flag part is the main body of the lot and the pole part is the narrow portion of the lot that provides access from the street. The pole portion of the lot is not used to calculate area, width, depth, and setbacks of the lot or to provide off-street parking. A flag lot shall serve only one single-family dwelling and its uninhabited accessory structures. Flag lots shall only be approved when particular extenuating circumstances make traditional lot design and minimum road frontage infeasible. There shall be no more than one flag lot within 1000 feet of another flag lot and only one flag lot may be created from a parent tract within a 3-year period. The maximum pole length shall not exceed 500 feet. The minimum pole width on an approved public or private street shall be 25 feet. No re-subdivision of a flag lot shall be permitted unless access to the proposed new lot(s) can be provided from an approved street.
 

*Amended 6-20-22*
  
- C. Minor Plat Submittal Requirements. The plat shall be submitted in conformance with (1) all applicable zoning and subdivision requirements, (2) does not require the extension of a public water or sewer line other than laterals, (3) easements shall be 50 feet from intermittent streams and 100 feet from perennial streams, (4) the requirements of NCGS 47-30, including but not limited to the applicable information required in Section 100.65-13 shall be met, and (4) includes applicable statements required in Section 100.65-16.
 

*Amended 6-20-22*

- D. Expedited Review. The Administrator shall render a decision within 5 working days after receipt of the completed plat for the division of a tract or parcel of land in single ownership if all of the following criteria are met:
1. The tract or parcel to be divided is not exempted under Section 100.65-3
  2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;
  3. The entire area of the tract or parcel to be divided is greater than 5 acres;
  4. After division, no more than three lots result from the division; and
  5. All resultant lots comply with all of the following: Any zoning lot dimension size requirements, the use of the lots is in conformity with the applicable zoning requirements, and the lots meet the minimum frontage requirements for minor subdivisions.
- Amended 6-20-22*
- E. Action by the Administrator. Except for sub-section D., the Administrator shall render a decision within 14 working days after receipt of the completed plat and additional documents. If no decision is rendered by the Administrator within the required 14-day period, the applicant may refer the plat to the Planning Board for review. If the subdivision is disapproved, the Administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.
- F. Expiration of Plat Approval. Approval of a Minor Subdivision plat is contingent upon the plat being recorded within 60 days after the date the plat is signed by the Administrator. Failure to record the approved plat and all associated documents within the 60-day period shall render the plat null and void.
- G. Appeal. Final action on a Minor Subdivision plat by the Administrator may be appealed to the Board of Adjustment.

#### **Sec. 100.65-5 Major Subdivisions - Preliminary Plat Submittal and Review**

- A. Applicability. All subdivisions shall be considered major subdivisions except those defined as exempt or minor subdivisions. This includes condominium and town home developments. Major subdivisions are further classified as a division of a lot of land into 5 or more lots of land at initial time of division or accumulative over a period of 5 years or the creation, change, or expansion of new or existing private or public streets.
- B. Subdivision Review Approval Steps.
1. Project meeting with sketch plan.
  2. The Town shall post a sign stating "Subdivision Decision Pending."
  3. Preliminary Plat Submittal and Approval to Planning Board and Board of Commissioners.
  4. Construction Plan Submittal and Approval (or Improvement Guarantees approved in accordance with the requirements of this section).
  5. Installation and Inspections of Improvements.
  6. As-Built Drawings Submittal and Approval.
  7. Final Plat Approval by staff.
- C. Preliminary Plat Submittal. Two printed copies of the preliminary plat shall be submitted to the Administrator before the item may be scheduled for Planning Board review to ensure that any deficiencies are addressed. One copy with any noted deficiencies will be returned to the applicant. After all corrections are made, the Preliminary Plat must be received at least 14 days prior to the Planning Board meeting at which it will be considered. Preliminary plats shall meet the specifications in this section and shall (1) be submitted as a conventional subdivision, part of Conditional Zoning, or as a

watershed cluster development, (2) meet all applicable zoning and subdivision requirements, (3) comply with NCGS 47-30, including but not limited to the applicable information required in Section 100.65-13, and (4) include applicable certificates required in Section 100.65-16. Plats submitted as part of Conditional Zoning will comply with the district standards approved as part of the zoning process.

- D. Preliminary Soil Evaluation Report. For major subdivisions requiring the use of septic systems, the developer shall provide a report from a licensed Soil Scientist who shall perform a soil assessment prior to approval of the preliminary subdivision plat. The report from the Soil Scientist shall accompany the submittal of the preliminary plat and shall be in the form of a letter, signed and dated, and shall include the possibilities of lot sizes the site can support.
- E. Action by the Administrator. The Administrator shall review the preliminary plat and within 10 days provide comments to the applicant. Plats shall not be forwarded to the Planning Board for review and approval until all deficiencies have been addressed or input from the Planning Board is needed before moving the project to the Board of Commissioners.
- F. Agency Review. Before the preliminary plat is approved, the Administrator shall consult with other departments and agencies, depending on the needs of the project, to ensure conformance of the proposed subdivision with the various development standards set forth by county and state agencies, which may include but are not limited to:
  - 1. Superintendent of Schools and/or Board of Education for issues regarding school site reservation
  - 2. North Carolina Department of Environmental Quality
  - 3. Army Corp of Engineers
  - 4. North Carolina Department of Transportation (for encroachment agreements and traffic impact analysis)
  - 5. Moore County Department of Environmental Health
  - 6. Moore County Department of Public Works
  - 7. Moore County Fire Marshall
  - 8. Moore County Department of Public Safety
  - 9. Moore County GIS for addressing

To expedite the review process, the applicant is encouraged to contact the relevant agencies and provide information as received from them regarding project design to the town.

- G. Action by the Planning Board. The applicant shall submit an electronic version in .pdf format that is visible when printed at tabloid scale. If more than one sheet is necessary to be visible at that scale, the applicant shall submit a cover sheet showing the overall project and phased sheets to provide detail. The applicant is encouraged to mount and bring a 24" x 36" printed board to the meeting. The Planning Board shall review the preliminary plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the plat to the Board of Commissioners. The applicant may adjust the preliminary plat to address the concerns of the Planning Board prior to submittal to the Board of Commissioners.
- H. Subdivision Decision Pending. The Town shall post a sign containing the words "Subdivision Decision Pending" in letters at least 6 inches high, including contact information of the Administrator, on the site in a prominent location including street-frontage. If the property is already posted for public hearing, then a "subdivision pending" sign is not required.
- I. Action by the Board of Commissioners. The applicant shall provide 2 copies of the preliminary plat upon which to record the Commissioners' final action. The Board of Commissioners shall review the

preliminary plat and shall approve, approve conditionally with modifications to bring the plat into compliance, or disapprove the plat.

- J. Approval. If approval is granted, written confirmation shall be made on two copies of the preliminary plat. One copy of the approved preliminary plat shall be returned to the applicant. Approval of the preliminary plat is authorization for the applicant to proceed with submittal of construction drawings followed by construction of the necessary improvements.
- K. Conditional Approval. If the Board of Commissioners approves the preliminary plat with conditions, the conditions shall be noted on the plat. Unless approved as part of a conditional zoning decision, the conditions shall only be for the purpose of bringing the plat into compliance with Development Ordinance regulations.
- L. Denial. If the Board of Commissioners disapproves the preliminary plat, the reasons for such action shall be stated in writing and reference shall be made to the specific regulations with which the preliminary plat does not comply. Possible modifications may be indicated for further consideration. The applicant may make the recommended revisions and submit a revised preliminary plat.
- M. Expiration. Preliminary plat approval shall be valid for a period of two years from the date of approval of the plat by the Board of Commissioners unless an extension of time is applied for and granted by the Board. Each successive final plat for a phase of the subdivision shall be submitted for approval within two years of the date of approval of the previous final plat for a phase of the subdivision. Failure to do so shall result in resubmittal of the preliminary plat for compliance with current regulations.
- N. Appeal. Final action on a Major Subdivision plat by the Board of Commissioners may be appealed to the Board of Adjustment.

**Sec. 100.65-6 Major Subdivisions – Minimum Design Standards as Shown on Preliminary Plat**

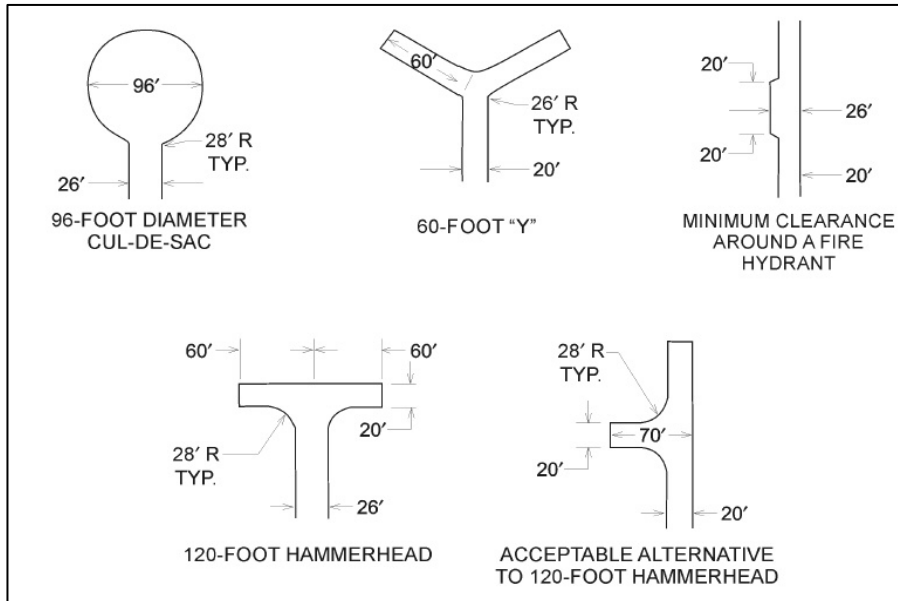
- A. Conformity to existing maps or plans. The plat shall conform to any official map or plan adopted by the Board of Commissioners including but not limited to the Land Development Plan, the Bicycle and Pedestrian Plan, and the Comprehensive Transportation Plan.
- B. Topography. The general design shall take advantage of and be adjusted to the contour of the land so to produce usable building sites and streets of reasonable gradients. Steep slopes (15% or greater) shall be labeled on the preliminary plat. The applicant shall reflect any road grades to intersection that may or exceed 8%.
- C. Suitability of Land.
  - 1. Land which has been determined by the Board of Commissioners on the basis of engineering or other expert surveys or studies to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed, shall not be platted for that purpose, unless and until the applicant has taken the necessary measures to correct said conditions and to eliminate said dangers. Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Moore County Department of Environmental Health or a qualified licensed professional determine that the land is suitable for the purpose proposed.
  - 2. The Town will use the Green Growth Tool Box as adopted by the NC Wildlife Resource Commission to identify if unacceptable impacts to the natural environment could occur. Applicants are encouraged to familiarize themselves with this tool. Unacceptable impacts include but are not limited to:
    - a) Unmitigated loss of habitat for critical or endangered species,
    - b) Unmitigated wetland impacts,
    - c) Impacts to streams, creeks, or rivers, or
    - d) Inclusion of wetlands and floodplains within building envelopes as verified by a jurisdictional wetland line and/or floodplain boundary.
- D. Street Design Standards. All streets and related components, including but not limited to storm water controls, drainage, curb and gutter, wheelchair ramps, pavement designs, traffic controls, guardrail, road intersections, islands or short medians at entrances, name markers, and minimum design criteria, shall be designed and constructed, and with 8 inches of ABC (Aggregate Base Course) as the foundation with 1.5 inches of basecoat asphalt will be placed on top of the base coat as the finished coat. Streets shall be designated on the plat as “public” or “private.” Right-of-way width for subdivisions with lots less than 20,000 square feet will require a 60’ right-of-way, which shall include curb and gutter and on street parking. With lots 20,000 square feet or more a 60’ right-of-way, with an open ditch shall be the minimum required. This requirement may only be waived by the Board of Commissioners upon demonstration of adequate off-street parking. f
- E. Master Sign Plan for Subdivisions and Conditional Zoning Developments. A Master Sign Plan shall be approved for all subdivision developments and conditional zoning approval processes by the Board of Commissioners. The plan shall substantially conform to the requirements of Section 100.59, Sign Regulations with the overall objective being unified signage. The Board of Commissioners may exercise flexibility in sign placement as part of the approval process.
- F. Curb and Gutter. Concrete curb and gutter are required in any subdivision with lot sizes of 10,000 square feet or less. Curb and gutter installation shall conform to the Design Manual and Specifications for

Amended: 7/14/2023

Subdivision Development and the NCDOT Subdivision Roads Minimum Construction Standards unless otherwise specified herein. Subdivisions with lot sizes 20,000 square feet or greater may install rolled asphalt curb and gutter. In rural designations greater than one mile from the primary corporate limits of Carthage, curb and gutter is not required for subdivisions with lots 20,000 square feet or greater. However, a drainage study shall be prepared and roadside swales shall be installed.

- G. Marginal Access Streets. Where a tract of land to be subdivided adjoins an arterial street, the subdivider shall provide a marginal access street parallel or adjacent to the arterial street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial. A maximum of 5 lots may front an arterial street as approved by the Board, on a case-by-case basis.
- H. NCDOT approval. If any street proposes to access a state-maintained road, the subdivider shall receive NCDOT driveway approval as required by NCDOT's "Policy on Street and Driveway Access to North Carolina Highways" prior to construction and/or final plat approval. NCDOT may require a traffic impact study. The required Homeowner's Association (HOA) documents and by-laws, to be recorded at the same time as the final plat, shall include the following: The HOA shall be responsible for the maintenance of all streets until the streets are accepted into the State Highway System. Private streets are allowed, but they must be built to NCDOT standards. The required Homeowner's Association (HOA) documents and by-laws, to be recorded at the same time as the final plat, shall include the following: The HOA shall be responsible for the maintenance of all streets. HOA requirements shall be consistent with 100.65-7D.2.
- I. Street Names. All roads shall comply with the applicable provisions of the Addressing Ordinance.
- J. Street Name and Traffic Control Signs. The applicant shall be required to provide and erect, at the developer's expense, street name signs and traffic control signs per the NCDOT Manual on Uniform Traffic Control Devices at all intersections within the subdivision prior to final plat approval.
- K. Sidewalks. When required, five (5) foot concrete sidewalks shall be installed in conformance with the town's adopted Bicycle and Pedestrian Plan.
  - 1. Concrete sidewalks shall be provided on both sides of the road in nonresidential subdivision project areas.
  - 2. Residential subdivisions with lots sizes 10,000 square feet or greater shall provide sidewalks on one side of the road. Sidewalks are not required on cul-de-sac roads 500 feet or less in length unless the sidewalk is proposed to connect to a recreation facility or trail. The objective in these subdivisions is to create a linear walking system that connects or eventually will connect to the town's pedestrian network.
  - 3. Residential subdivisions with lot sizes less than 10,000 square feet in size shall provide sidewalks on both sides of the road. Sidewalks are not required on cul-de-sac roads 500 feet or less unless the sidewalk is proposed to connect to a recreation facility or trail. The objective in these subdivisions is to create a linear walking system that connects or eventually will connect to the town's pedestrian network.
  - 4. The Board of Commissioners may authorize the use of mulched or asphalt pedestrian facilities where:
    - 1) the development provides outstanding recreational opportunities that offset the need for a concrete pedestrian facility, or
    - 2) the setting for the development is extremely rural and is not within 1 mile of the primary corporate town limits and
    - 3) a maintenance entity is created to maintain the facility and the resulting restrictive covenants are reviewed by the Town.

- L. Dead-End Streets. Dead-end roads shall be terminated in a cul-de-sac or “T” turnaround per the NC Fire Code Fire Apparatus Access Roads Standards. Required dimensions for cul-de-sacs shall be coordinated with the Moore County Fire Marshall and Public Works during the sketch plan review process.



- M. Street Trees and Sight Triangles. Site triangles shall be shown on the preliminary plat. Visibility must be maintained within the sight triangle. The subdivider shall plant or leave at least 2 trees along each lot frontage, outside of sight triangles, as illustrated on the preliminary plat by note or graphics. One tree per lot may be preserved or planted when lot sizes are less than 12,000 square feet. Unless agreed to by the town, the trees shall not be planted within the public right of way. The trees planted shall be a minimum height of 6 feet at the time of installation with the intent to grow to 10 feet within 2 years. Trees may be installed before final plat approval or a performance guarantee shall be posted. If a developer has a contract for sale for a home, a waiver of this requirement may be granted by the future homeowner. Waivers are not available for “spec” homes.
- N. Water and Sewer Options. All water and sewer systems shall be installed in accordance with the adopted Design Manual and Specifications for Subdivision Development appended to this ordinance and shall comply with the town’s Water and Sewer extension policy. Deviations from the design manual must be approved by the Public Works Director and shall be sealed by an engineer.
- O. Fire Service. Major residential subdivisions of 20 or more lots and nonresidential subdivisions shall provide for fire service flow. Where in the opinion of the Board of Commissioners a major subdivision of twenty or more lots cannot be economically connected to a publicly owned or operated water distribution system, a privately owned water supply, including hydrants, must be installed with a minimum of six-inch water lines capable of delivering fire service flows. The Board of Commissioners, subject to the approval of the County Fire Marshall or the authority having jurisdiction, may authorize the use of water bodies on site in lieu of six-inch lines with hydrants. Fire service flows and hydrant design and placement shall be consistent with all Fire Prevention Codes and policy manuals as set forth by Moore County Fire Marshall’s Office and Public Works. Unless authorized by the Board and/or directed otherwise by design manuals, the following standards shall apply.
1. All fire hydrants shall be installed on a minimum six-inch waterline.



2. There shall be at least one fire hydrant at each street intersection.
3. Valves associated with fire hydrant assemblies shall be located within 12 to 25 feet of the edge of the pavement.
4. No fire hydrant may be located more than 25 feet from the pavement edge.
5. The applicant shall adhere to the following spacing schedule. Separation shall be measured along street centerlines. When schools and high-density and multi-story nonresidential intersections are less than 450 feet apart, a hydrant is not required between intersections. Where intersections are less than or equal to 1,000 feet apart in low density residential developments, no hydrant is required between the intersections.

		<b>PROPOSED USE</b>	<b>SPACING (FEET)</b>	
P. Drainage Easements. subdivision traversed stream or		Residential	500	Where a is by a drainage
		Schools	300	
		Low and medium density nonresidential, single story	500	
		High density and multi-story nonresidential	300	

way, an easement shall be provided conforming to the lines of such stream and be of sufficient width to provide adequate drainage for the subdivision. If a stream or drainage way does not cross a subdivision, a drainage way easement shall be provided along the topographically lowest property line(s) of lots within the subdivision of sufficient width to convey stormwater flow.

- Q. Stormwater Management. Post-development stormwater runoff shall be controlled to predevelopment conditions for the two (2) and ten (10) year storm events. Low density development shall conform to the requirements of the watershed water supply overlay district in which the property is located. The developer must provide the Town with a copy of the Erosion Control Permit and Plans and Stormwater Permit and Plans from DEQ and all 401/404 wetland and stream permits, determination letters and approval letters prior to commencing any construction activities.
- R. Utility Easements. Easements for underground or above ground utilities shall be provided where needed. Where possible these easements shall be located in the street right-of-way. Where easements are necessary across land, they shall be located to the extent possible along property lines and shall not be located within building envelopes. Five (5) foot utility easements will be provided alongside lot lines and ten (10) foot easements shall be provided along rear lot lines, unless a determination is made that they are not needed.
- S. Underground Utilities. All new utilities associated with the proposed development shall be underground unless just cause requires otherwise as approved by the Board of Commissioners.
- T. Oversized Improvements. The Town may require installation of certain oversized utilities or the extension of utilities to abutting property when it is a part of its long-term growth objectives and the extension is in the interest of future development. If funds are set aside by the Town for the installation of improvements in excess of the standards required in this Ordinance, the Town will pay the cost differential between the improvement required and the standards in this Ordinance.
- U. Lots. Double frontage lots or through lots shall be avoided. Side lines of lots shall be at or near right angles or radial to street lines. Lot lines shall coincide with natural and manmade drainageways where possible to avoid disruption of drainage patterns by lot development.
- V. Building Envelopes. Residential building envelopes shall be shown for each single-family detached lot to demonstrate that the lots have buildable dimensions to meet setbacks and construct a 2000 SF home.

Building envelopes shall be adjusted to exclude wetlands and floodplain. Building envelopes for cul-de-sac bulb lots shall demonstrate a minimum frontage of 50 feet. Building envelopes shall also be shown for all other uses consistent with dimensional requirements for the type of use and reflective of conditional zoning, if applicable.

W. Development Access Points. Unless exempted below, all subdivisions shall provide access from the development to a collector street outside the development to provide for efficient movement of vehicles as well as providing for emergency access. When determining the number of access point to be provided, the developer shall include existing development also accessing the same streets as is typically observed in connected subdivisions.

1. Up to 100 lots – 1 access point.

2. 101-150 lots – 2 access points

3. If a development has greater than 150 lots, a minimum of two entry points shall be provided. If the County Fire Marshall or Public Works determines that additional access is required to provide for public safety, it shall be shown on the plat.

Development may be exempt from requiring 2 access points if topography (slope, wetlands, floodplain) restricts the installation of a second access point.

X. Reservation of School Site. If the Moore County Board of Commissioners and Board of Education have jointly determined the specific location and size of any school sites to be reserved in accordance with a comprehensive land use plan, the Administrator shall notify the Board of Education (BOE) whenever a preliminary plat is submitted which includes all or part of a school site to be reserved. If the BOE does wish to reserve the site, the subdivision shall not be approved without such reservation. The BOE shall then have 18 months beginning on the date of preliminary approval of the subdivision within which to acquire the site by purchase or by exercise of the power of eminent domain. If the BOE has not purchased or begun proceeding to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation and may modify the plat for development purposes. There will be no charge for plat review for the modification.

Y. Cluster Mailboxes. Appropriate mail receptacles must be provided for the receipt of mail as approved by the Postal Service and other applicable departments. Cluster mailboxes (mail kiosks) shall be located outside of the right-of-way, provide for easy ingress and egress, and provide at least one standard parking space and a handicapped parking space. Cluster mailboxes shall be covered to protect residents from rain. Approvals of installation by the Postal Service and Building Inspector are required prior to final plat approval.

Z. Street Lighting. Streetlights shall be provided in accordance with the town's policy on lighting. Streetlights shall be spaced approximately every 200 feet and may be staggered on opposite sides of the street. Lights installed in town may be leased and added to the town's street light network. If a developer chooses to install decorative lighting, it will be the developer's responsibility to pay the additional cost.

### **Sec. 100.65-7 Major Subdivisions – Specific Cluster Development Provisions**

- A. Purpose. Where allowed under watershed water supply protection provisions, applicants may choose to submit a project for cluster development to protect water quality for drinking water supplies.
- B. Applicability. The cluster option is permitted in all watershed water supply protection areas. Cluster development is allowed under the following conditions:

1. Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments. Impervious surface area or storm water control requirements of the project shall not exceed that allowed for the balance of the watershed.
  2. All impervious surface areas shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.
  3. The remainder of the tract shall remain in a vegetated or natural state not to be developed at any future date.
  4. The final plat shall identify the remainder of the tract to remain in a vegetated or natural state as “reserved for watershed protection.”
- C. Dimensional Requirements. Lot dimensional requirements shall be based on lot size as reflected in comparable zoning districts in Section 100.57 Tables 1 and 2. As an example, if the lot size is proposed to be 10,000 square feet, then dimensional standards for the R-10 district will be used.
- D. Ownership of Open Space. No final plat shall be approved until all required legal instruments have been reviewed and approved by the Town Attorney as to legal form and effect. Land dedicated for open space shall be designated on both the preliminary and final plat(s) of the subdivision. All open space shall be permanently restricted from further subdivision. Open space shall be owned and/or administered by one or more of the following methods:
1. Fee simple dedication to a public government entity or a private non-profit land conservancy which public access shall be provided.
  2. Ownership by a homeowner’s association (HOA) where specific development restrictions and maintenance requirements are included as part of its bylaws and restrictive covenants filed in the Register of Deeds Office. Such conveyances shall be approved by the Town Attorney, subject to the North Carolina Unit Ownership Act / North Carolina Condominium Act, and shall be filed with the Town. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the HOA before any lots are sold. The required organizational documents and by-laws shall include, but are not limited to, the following: Membership shall be mandatory for each buyer and any successive buyer. The developer shall be responsible for all maintenance and other responsibilities of the HOA until 60% of all units to be sold are sold. After 60% of all units are sold, the HOA shall levy assessments and assume its responsibilities. The HOA shall be responsible for liability insurance, taxes and maintenance of all recreational open space facilities, grounds and common areas. Any sums levied by the HOA that remain unpaid shall become a lien on the individual property.
  3. A private landowner may retain ownership of the open space, provided a conservation easement established for that express purpose is recorded in the public records of Moore County prior to the approval of a plat or issuance of a building permit for a vertical building or structure on the property. The responsibility for maintaining the open space and any facilities shall be borne by the private landowner.

**Sec. 100.65-8 Major Subdivisions – Specific Conventional Subdivision Design Standards**

- A. **Applicability.** The conventional subdivision option is permitted in all residential zoning districts and shall comply with the requirements and standards specified in this chapter and in all respects with other applicable codes and Ordinances. The stricter standards shall apply.
- B. **Open Space Requirements.** At least 5% of the tract to be subdivided must be preserved as public or private recreation and/or open space including the preservation of natural and cultural resources and/or to serve the leisure needs of the residents of the subdivision. Passive or active recreation areas shall be located so as to provide accessibility to all residents of the subdivision and shall be identified on the plat. At least half of the open space shall be centrally located to the development with the intent that it not be pushed to the boundary of the parent tract. The Board of Commissioners will make a determination to whether or not to accept open space and recreation dedication based on the town's ability to manage or operate the area. If the area is not to be accepted for public dedication, it shall comply with the "Ownership of Open Space Requirements" for cluster developments.
- C. **Payments in Lieu of Dedication of Recreation Requirements.** Recreation and/or open space required for conventional subdivisions may make a payment in lieu of dedication or make a combination of land dedicated and payment. Before approving a payment in lieu of dedication, the Board of Commissioners shall find that no recreation/open space sites have been designated on any officially adopted Recreation Plan within one half mile of the subdivision. The fees in lieu of dedication shall be paid prior to final plat approval. The amount of the payment shall be the product of the number of acres to be dedicated and the assessed value for property tax purposes of the land being subdivided, adjusted to reflect current fair market value at the time such payment is due to be paid. All monies received by the Town pursuant to this Section shall be used only for the acquisition or development of parks, greenways and linear pedestrian facilities, open space sites, and other related facilities.

#### **Sec. 100.65-9 Major Subdivision – Construction Drawings**

- A. **Construction Plan Submittal.** Following preliminary plat approval, the subdivider shall submit 2 paper copies and a digital copy of the construction plans to the Administrator. Licensed Professional Engineer design and certification are required on all construction related plans, including but not limited to streets, stormwater controls, drainage, and utilities (storm sewers, sanitary sewers, water systems, electric, cable, natural gas, telephone, etc.). Submittal requirements are reflected in Sec 100.65-15. One copy of construction drawings shall be returned to the applicant with town comments.
- B. **Agency Review.** The construction plans shall be reviewed and approved by the appropriate departments and agencies prior to the start of construction and/or the submission of the final plat. The subdivider shall submit all required state and federal permit approvals to the Administrator before construction begins including but not limited to NCDEQ, Army Corp of Engineers, and NCDOT. The Director of Public Works, with input from the Town Administrator shall authorize when construction may begin based on plans submitted.
- C. **Soil Evaluation Report.** When appropriate, the subdivider shall submit a report including a lot-by-lot evaluation, signed, sealed, and dated from a licensed soil scientist, for septic system capacity. The report must show that each proposed lot has been evaluated under the current provisions of Title 15A NC 18A.1900 et seq. The evaluation should note whether there is adequate space for an on-site individual private water source and an on-site subsurface sewage treatment and disposal system, if needed. If the developer proposes a system that would treat a flow of 3,000 GPD or greater, and therefore would require state approval, a letter from the State would also be required to be submitted for final plat approval.
- D. **Start of Construction.** The applicant, prior to commencing any work within the subdivision, shall make arrangements with the Public Works Director to provide for adequate inspections.

- E. Inspections. No final plat shall be approved until all required infrastructure has received final inspection approval or appropriate surety has been provided. Upon completion of public or private streets the developer shall submit confirmation by a registered engineer that the roads have been constructed to the standards of the NCDOT manual.
- F. Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements. Before approval of the final plat or before the release of improvements guarantees, the applicant shall acquire the services of a licensed engineer to supervise the construction, inspect upon completion, and certify in writing to the Administrator that the improvements have, in fact, been installed in accordance with the requirements of this ordinance, with the preliminary plat, and with the Division of Highway's Minimum Construction Standards, or explanations and drawings of any necessary changes.
- G. As-Builts. As-built drawings shall meet the requirements of the appropriate agency involved. No building, zoning or other permits shall be issued for construction of a building on any lot (not of record at the time of adoption of this Ordinance) until all the requirements of this Ordinance have been met and as-built drawings of all improvements have been submitted and approved by the appropriate agencies.

**Sec. 100.65-10 Major Subdivisions – Final Plat Submittal**

- A. Final Plat Submittal Requirements. The final plat shall conform substantially to the approved preliminary plat. Should the Administrator, Environmental Health, the Fire Marshal, NCDOT, the ACOE or DEQ identify minor changes, the Administrator shall be authorized to accept such minor modifications to plat as necessary. Such minor changes may include, but not be limited to, small site alterations such as realignment of streets and relocation of utility lines due to engineering necessity, and recombination and reconfiguration of lots so long as the number of lots is not increased over that approved on the preliminary plat. If the Administrator determines that such changes are questionably not minor changes, the plat may be referred to the Board of Commissioners at the Administrator's discretion. If the submitted final plat deviates in its overall design from the approved preliminary plat, the plat shall be reviewed by the Board of Commissioners. Examples of such changes in overall design triggering review include increase in the number of lots, realignment of roads, increase in road lengths or additions of cul-de-sacs, reduction in open space or sidewalks, and changes in ingress or egress to the development.
- B. Action by the Administrator. The Administrator shall take expeditious action on a final plat. If the Administrator fails to act within 15 business days after the final plat is submitted, the applicant may request that the final plat be reviewed by the Board of Commissioners.
- C. Approval. The Administrator shall approve the final plat unless the plat fails to comply with one or more of the requirements of this Ordinance or that the final plat differs substantially from the plans and specifications approved for the preliminary plat.
- D. Denial. If the final plat is disapproved by the Administrator, the applicant shall be furnished with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply.
- E. Appeal. If a final plat is disapproved by the Administrator, the applicant may appeal the decision to the Board of Adjustment.
- F. Expiration of Final Plat. Approval of a final plat is contingent upon the plat being recorded in the Office of the Register of Deeds within 60 days after the approval date of the final plat. Failure to record the approved plat within the specified 60-day period shall render the plat null and void.

Final Plat

**Sec. 100.65-11 Phasing**

- A. Plat Detail. When a subdivision is to be developed in phases the preliminary plat shall be submitted for the entire development. The boundary of each phase shall be shown on the preliminary plat. A final plat shall be submitted for each phase.
- B. Adequate Facilities. Phasing may be tied to adequate public facilities such as water or sewer. The Board of Commissioners may not approve a phasing plan if they determine such phasing will not provide adequate facilities to support any such phase or phases independent of the overall subdivision plan.
- C. Each Phase Must be Capable of Standing on its Own. Temporary improvements may be authorized for public safety purposes for each phase to allow for emergency ingress and egress. All other final plat requirements must be satisfied before each phase is released.
- D. Expiration. Each successive final plat for a phase of the subdivision shall be submitted for approval within 24 months of the date of approval of the previous final plat for a stage of the subdivision.

**Sec. 100.65-12 Performance Guarantees for Major Subdivisions**

- A. Options. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Board of Commissioners may enter into an agreement with the subdivider to provide performance guarantees to assure successful completion of required improvements. The amount of performance guarantee shall not exceed 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Administrator. Per North Carolina General Statutes, the developer shall elect any of the following forms of guarantee:
  - 1. Surety bond issued by any company authorized to do business in this State.
  - 2. Letter of credit issued by any financial institution licensed to do business in this State.
  - 3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- B. Release. The performance guarantee shall be returned or released in a timely manner upon the acknowledgement by the Town that the improvements are complete. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion. The guarantee may be released in phases as improvements are completed or all at once. If the guarantee is released in phases as improvements are completed, town staff may request an updated reasonable estimate showing the balance. Release of guarantee may be authorized by the Town Manager with input by staff that the improvements have been completed in accordance with town requirements.
- C. Extension. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer. Any extension of the performance guarantee necessary to complete required improvements shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
- D. Claim of Rights. No person shall have or may claim any rights under or to any performance guarantee provided or in the proceeds of any such performance guarantee other than the following:
  - 1. The local government to whom such performance guarantee is provided;

2. The developer at whose request or for whose benefit such performance guarantee is given; or
3. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

**Sec. 100.65-13 Subdivision Plat Requirements**

An ‘X’ indicates that the information is required. The applicant is encouraged to meet with the Administrator to determine if more or less information is needed to address the requirements of this section. This table may also be used as a checklist by the applicant or town staff.

<u>Information Required</u>	<u>Exempt</u>	<u>Expedited Minor</u>	<u>Minor</u>	<u>Preliminary</u>	<u>Final</u>	<u>Submitted by Applicant</u>
<u>General Requirements</u>						
<u>Date survey prepared and any revision dates</u>	X	X	X	X	X	
<u>Owner’s name and address</u>	X	X	X	X	X	
<u>Name of Subdivision</u>	X	X	X	X	X	
<u>Town, township, county, state</u>	X	X	X	X	X	
<u>Name, Address and Number of Surveyor</u>	X	X	X	X	X	
<u>Scale in Words and Bar Graph</u>	X	X	X	X	X	
<u>Type of Plat (Preliminary, Final, Major, Minor, Exempt, Watershed Cluster, Conditional Zoning)</u>	X	X	X	X	X	
<u>Map signed and sealed by surveyor</u>	X	X	X*	X*	X*	
<u>Appropriate certificates included</u>	X	X	X		X	
<u>Vicinity Map</u>	X	X	X	X	X	
<u>Moore County parcel identification number</u>	X	X	X	X	X	
<u>Names, addresses, telephone numbers, and Email of surveyors, architects and engineers responsible for project</u>				X	X	
<u>Corporate limits</u>	X	X	X	X	X	
<u>Plat Book /Deed Book References</u>	X	X	X	X	X	
<u>Site Data</u>						
<u>Acreage of property to be subdivided less Public ROW</u>	X	X	X	X		
<u>Acreage of public use sites and dedicated open space</u>				X	X	
<u>Number of existing (if more than one) and proposed lots</u>	X	X	X	X	X	

<u>Information Required</u>	<u>Exempt</u>	<u>Expedited Minor</u>	<u>Minor</u>	<u>Preliminary</u>	<u>Final</u>	<u>Submitted by Applicant</u>
<u>Square footage of each lot under one acre in size and acreage if more than one acre</u>		<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Average lot size</u>				<u>X</u>		
<u>Smallest lot size</u>			<u>X</u>	<u>X</u>		
<u>Linear feet of streets</u>				<u>X</u>		
<u>Bearings and distance of existing and proposed property lines (label old lines)</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Proposed block numbers</u>				<u>X</u>	<u>X</u>	
<u>Zoning classification of lot and adjoining lots</u>			<u>X</u>	<u>X</u>	<u>X</u>	
<u>Minimum building setback lines</u>			<u>X</u>	<u>X</u>	<u>X</u>	
<u>Setback lines shown within irregularly shaped lots</u>			<u>X</u>	<u>X</u>	<u>X</u>	
<u>Lots numbered</u>			<u>X</u>	<u>X</u>		
<u>Addresses of all new lots created</u>					<u>X</u>	
<u>Sidewalk locations</u>				<u>X</u>	<u>X</u>	
<u>Proposed street grades</u>				<u>X</u>		
<u>Proposed Infrastructure from Adopted Plans</u>				<u>X</u>	<u>X</u>	
<u>Areas for trees, buffers, and landscaping</u>				<u>X</u>	<u>X</u>	
<u>Existing Condition Information within 300' of Property</u>						
<u>Location and Size of Public Utilities</u>			<u>X</u>	<u>X</u>		
<u>Location and Size of Bridges, Culverts, and other Storm Drainage Facilities</u>				<u>X</u>		
<u>Location, Width and Purpose of all Easements</u>			<u>X</u>	<u>X</u>	<u>X</u>	
<u>Proposed and existing rights-of way labeled public or private</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>A note that the subdivision will be served by central or individual water supply</u>		<u>X</u>	<u>X</u>	<u>X</u>		
<u>A note that the proposed subdivision will be served by public sewer or septic</u>		<u>X</u>	<u>X</u>	<u>X</u>		
<u>Surrounding Property Lines, Property Owners and Subdivisions</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Deed references of surrounding properties</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	



<u>Information Required</u>	<u>Exempt</u>	<u>Expedited Minor</u>	<u>Minor</u>	<u>Preliminary</u>	<u>Final</u>	<u>Submitted by Applicant</u>
<u>Existing buildings and structures</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Distance of existing structures from proposed property lines</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Lines not surveyed with source data</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Contours no greater than 5' intervals</u>				<u>X</u>		
<u>Wooded areas</u>				<u>X</u>		
<u>Water features and wetlands from survey or National Wetland Inventory</u>		<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Floodplains with FIRM panel number</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Other natural or manmade features affecting site development</u>			<u>X</u>	<u>X</u>		
<u>National Register Properties with names on or adjacent to the site</u>		<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Proposed sign locations</u>				<u>X</u>		

**Sec. 100.65-14 Construction Drawings**

Upon review and/or approval of a preliminary plat, a preconstruction meeting shall be scheduled with the Administrator and the Director of Public Works. Construction drawings with the following additional information shall then be submitted and approved by staff or a qualified professional retained by the town.

A. Street Data

- 1) Design engineering data for all corners and curves
- 2) Typical street cross-section
- 3) Street maintenance agreement, if necessary
- 4) Certification that the subdivider has obtained driveway approval from the NC Department of Transportation for any street that is proposed to intersect with a State maintained road

B. Public Utility Plans (prepared by a professional engineer licensed in the State of North Carolina)

- 1) Sanitary sewer utility layout
- 2) Storm sewer utility layout
- 3) Water distribution line layout, illustrating connections to existing systems and showing line size, and location of fire hydrants, blowoffs, manholes, force mains, and gate valves
- 4) Plans and utility layouts for natural gas lines, telephone lines, and electrical lines
- 5) Plans for individual water supply and sewage disposal systems, if applicable
- 6) Profiles of sanitary sewers and storm sewers, based upon Mean Sea Level datum
- 7) Approved by water and sewer extension plans

C. Development Plans

- 1) Copy of erosion control plan submitted to the appropriate authority, if such a plan is required
- 2) Landscape plan
- 3) Stormwater drainage plan
- 4) Any reservation areas for future linear facilities
- 5) Copy of any proposed deed restrictions or similar covenants

**Sec. 100.65-15 Offers of Dedication of Infrastructure**

Offers of dedication of infrastructure including roads, sidewalks, water, sewer and associated stormwater management shall not be accepted by the town until one year after signature of the Administrator on the final plat. Prior to acceptance, the infrastructure shall pass an inspection and all repairs shall be made. Offers of dedication shall be accepted by the Board of Commissioners through Board action during a public meeting.

**Sec. 100.65-16 Subdivision Certificates**

An 'X' indicates that the information is required. The Administrator may waive items if it is determined that they are not applicable.

<u>Type of Certificate or Statement</u>	<u>Exempt Plat</u>	<u>Minor Plat</u>	<u>Major Prelim. Plat</u>	<u>Major Final Plat</u>
<u>NCGS 47-30 Certificates</u>	<u>x</u>	<u>x</u>	<u>X</u>	<u>x</u>
<u>Review Officer Certification</u>	<u>x</u>	<u>x</u>	<u>X</u>	<u>x</u>
<u>Certificate of Ownership</u>	<u>x</u>	<u>x</u>		
<u>Certificate of Ownership and Dedication</u>			<u>X</u>	<u>x</u>
<u>Certificate of Exemption</u>	<u>X</u>			
<u>Exemption Compliance Statement</u>	<u>X</u>			
<u>Voluntary Agricultural District Proximity Statement</u>		<u>X</u>	<u>X</u>	<u>X</u>
<u>Public Water Supply Watershed Protection Statement</u>		<u>X</u>	<u>X</u>	<u>X</u>
<u>Certificate of Minor Subdivision Plat</u>		<u>X</u>		
<u>Certificate of Preliminary Major Subdivision Plat</u>			<u>X</u>	
<u>Certificate of Final Major Subdivision Plat Approval</u>				<u>X</u>
<u>NCDOT Div. of Highways District Engineer Certificate</u>				<u>X</u>
<u>Public Street Maintenance Disclosure Statement</u>				<u>X</u>
<u>Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements</u>				<u>X</u>
<u>Utilities Certificate</u>				<u>X</u>
<u>Sediment &amp; Erosion Control Plan Certificate</u>				<u>X</u>
<u>Stormwater Control Certificate</u>			<u>X</u>	<u>X</u>

Certificate of Soil Suitability				X
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**Review Officer Certification**

State of North Carolina

I, \_\_\_\_\_, Review Officer of Moore County, North Carolina, certify that the map or plat which this certification is affixed meets all statutory requirements for recording.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

**Certificate of Ownership (For Use with Minor Plats Only)**

I hereby certify that I am the owner of the property shown and described hereon, which is located within the subdivision regulation jurisdiction of the Town of Carthage, North Carolina, and that I hereby freely adopt this plan of subdivision.

\_\_\_\_\_  
Owner Date

\_\_\_\_\_  
Owner Date

**Certificate of Ownership and Dedication (For Use with Major Plats Only)**

I hereby certify that I am the owner of the property shown and described hereon, which is located within the subdivision regulation jurisdiction of the Town of Carthage, North Carolina, that I hereby freely adopt this plan of subdivision and dedicate all streets, alleys, parks, open space, and other sites and easements to public or private use as noted, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority.

\_\_\_\_\_  
Owner Date

\_\_\_\_\_  
Owner Date

\_\_\_\_\_  
(Notarized) Date

**Certificate of Exemption**

I hereby certify that the division of property shown and described hereon is exempt from the Town of Carthage Subdivision Regulations by definition and/or ordinance.

\_\_\_\_\_  
Subdivision Administrator Date



**NCDOT Division of Highways District Engineer Certificate (when appropriate)**

I hereby certify that the streets as depicted hereon are/are not consistent with the requirements of the North Carolina Department of Transportation, Division of Highways.

\_\_\_\_\_  
District Engineer

\_\_\_\_\_  
Date

**Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements**

*A. To be used when all improvements have been installed prior to final plat approval*

I hereby certify that I have inspected and find that all streets, utilities, and other required improvements as shown on the preliminary and final plats of the \_\_\_\_\_ Subdivision have been installed in an acceptable manner and according to the Town of Carthage specification and standards.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Licensed Professional

\_\_\_\_\_  
Seal

\_\_\_\_\_  
Registration Number

*B. To be used when some, but not all, improvements have been installed prior to final plat approval*

I hereby certify that I have inspected and find that the following streets, utilities, and other required improvements as shown on the preliminary and final plats of the \_\_\_\_\_ Subdivision have been installed in an acceptable manner and according to Town of Carthage specification and standards.

\_\_\_\_\_  
*(List all inspected and approved improvements)*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Licensed Professional

\_\_\_\_\_  
Seal

\_\_\_\_\_  
Registration Number

**Utilities Certificate**

I hereby certify that the \_\_\_\_\_ improvements have been installed in an acceptable manner and in accordance with the requirements of the Subdivision Regulations of the Town of Carthage, North Carolina or that a performance bond or other sufficient surety has been provided to assure completion of the required improvements.

\_\_\_\_\_  
Signature of Authorized Agent  
of Utility Provider

\_\_\_\_\_  
Date

**Certificate Regarding Erosion and Sedimentation Control Plan**

Where a subdivision of property does not require an Erosion and Sedimentation Control Plan as determined by licensed professional, the plat shall show the following certificate with signature

I hereby certify that the subdivision of property shown and described hereon does not require an approved Erosion and Sedimentation Control Plan.

(List all inspected and approved improvements)  
  
\_\_\_\_\_  
Date Licensed Professional  
  
\_\_\_\_\_  
Seal License Number

**Storm Water Control Statement**

I hereby certify that the subdivision of property shown and described hereon has stormwater management systems designed and constructed to NCDOT standards, DEQ standards or the Town of Carthage, as appropriate.

\_\_\_\_\_  
Date Licensed Professional  
  
Seal \_\_\_\_\_  
License Number

**Public Water Supply Watershed Protection Certificate**

I certify that the plat shown hereon complies with the Town of Carthage Watershed Water Supply Regulations and is approved by myself, as agent for the Watershed Review Board for recording in the Moore County Register of Deeds Office.

\_\_\_\_\_  
Subdivision Administrator Date

NOTICE: This property is in Located within a Public Water Supply Watershed – Development Restrictions May Apply.

*Include the following when applicable*

Any engineered stormwater controls shown on this plat are to be operated and maintained by the property owners and/or a property owners' association pursuant to the Operation and Maintenance Agreement filed with the Office of the County Register of Deeds in Book \_\_\_\_\_ Page \_\_\_\_\_.

**Public Street Maintenance Disclosure Statement**

*The following statement shall be placed on all subdivision plats that include newly constructed streets intended to be maintained by the NCDOT:*

‘The maintenance of public street(s) shown on this plat is (are) intended to be the responsibility of the North Carolina Department of Transportation, provided that all requirements for acceptance are met. Until such time as the NCDOT accepts the street(s), I (We) will provide for necessary maintenance of the streets.’

\_\_\_\_\_  
Owner(s)

**Licensed Soil Scientist Certificate**

*The following statement shall be placed on all subdivision plats that include lots where access to public water and/or sewer are not available.*

I hereby certify that the lot(s) on this plat have been evaluated under the current provisions of Title 15A NCAC 18A.1900 et seq., and have found to have adequate space for an on-site individual private water source and on-site subsurface sewage treatment and disposal system. NOTE: Due to variations in siting specific uses and potential for changes in regulation or soil conditions, issuance of a Well Permit or Improvement Permit by Moore County Department of Environmental Health is not guaranteed.

\_\_\_\_\_  
Date License No. Licensed Soil Scientist

**Sec. 100.66 Soil Erosion and Sedimentation Control Standards**

- A. All development shall be conducted in conformance with the standards and procedures for the control of sedimentation and soil erosion as set forth in North Carolina Statute, Chapter 113A, Article 4, (Sedimentation Pollution Control);
- B. No development permit shall be issued for development that involves land-disturbing activity if more than one (1) acre is to be uncovered, unless an erosion control plan has been approved by the Division of Land Resources of the North Carolina Department Division of Environmental Management and a copy of the approved plan is submitted as part of the development permit application;
- C. No development permit shall be issued for development that involves land-disturbing activity if less than (1) acre is to be uncovered, unless the person to whom the permit is to be issued affirms on the permit application that the land-disturbing activity will be conducted in conformance with the standards and procedures for the control of sedimentation and soil erosion as set forth in North Carolina General Statute, Chapter 113A, Article 4;
- D. Failure of the permit holder to perform land-disturbing activity in accordance with the standards and procedures for the control of sedimentation and soil erosion as set forth in North Carolina General Statute 113A, Article 4 shall result in the permit holder being in violation of the terms of this Ordinance and may result in the revocation of the development permit.

**Sec. 100.67 General Environmental Standards**

- A. The Board of Commissioners may require the developer to prepare an Environmental Impact Statement (EIS) pursuant to NCGS 113A-8 as part of the plan for any subdivision or development of two (2 ) acres or more where the Board of Commissioner’s opinion or any environmental factor, is a significant issue regarding the particular subdivision or development. The Board of Commissioners may waive the EIS where an EIS or equivalent document is required by a state or federal agency for the same or essentially the same factor(s)
- B. Trees, shrubs and other vegetation shall not be removed from or placed within public street rights-of-way without a permit issued by the Administrator. A permit shall also be required for any excavation of trenches or tunnels for the installation or repair of utilities taking place within the critical root zone of any tree on public right-of-way or property.

**Article 10     Overlay Districts; Purpose, Intent, and Regulations**

The General Use and Conditional Zoning Districts established by this Ordinance may also be zoned one of more Overlay Districts as designated herein and as shown on the Official Zoning Maps or as described herein. In such case, the land is subject to not only the underlying General use or Conditional Zoning Districts, but also the additional requirements of the Overlay District or Districts.

**Sec. 100.68   Watershed Protection Overlay District**

**A.     Purpose and Intent**

The legislature of the State of North Carolina has, in Chapter 143, Article 21, Watershed Protection Rules, and in 15A North Carolina Administrative Code 2B.0100 and 15A NCAC 2B.0200, delegated the responsibility or directed local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. The intent of the Watershed Protection Overlay District is to ensure the availability of public water supplies at a safe and acceptable level of water quality for present and future residents of the Town and the surrounding region. Watershed protection measures allowed by this Section of the Ordinance include:

- a. Impervious area limitations;
- b. Stream and reservoir buffers;
- c. Restriction of land uses and density allowed within water supply basins by the use of zoning.

**B.     Applicability**

- 1. The Watershed Protection District is an overlay district to be applied to designated watersheds on the Official Map of Zoning Districts with regulations superimposed on all lands lying within the watershed of a public water supply. The boundaries of the Watershed Protection District(s) shall be shown on the Official Map of Zoning Districts and Extraterritorial Jurisdiction. The Watershed Protection District consists of two (2) areas:
  - a. Killlets Creek – WS-III - Critical Area



b. Little River – WS-III - Balance of Watershed

No development shall take place within the Watershed Protection Overlay District without a development permit issued by the Administrator showing compliance with this section.

2. Exception for existing Development: Development existing as of June 21, 1993 is not subject to the requirements of this Section. Expansions to existing development must meet the requirements of this Section; however, the impervious surface area of the existing development is not required to be included in the density calculations. A pre-existing lot owned by an individual or assignee prior to the effective date of June 21, 1993, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this Section.

**C. Prohibited Uses**

The following uses are prohibited in the Watershed Protection Overlay Districts:

1. Uses producing and/or storing toxic and/or hazardous materials not meeting the following performance standards:
  - a. Any container or tank used to store hazardous materials shall be equipped with lead detection devices and shall be double walled or have other secondary containment devices;
  - b. Points of storage or use of hazardous materials shall be protected by a corrosion resistant lined dike, sized to handle without infiltration into subsurface the maximum amount of hazardous material to be stored or used;
  - c. All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous materials to be stored or used; these floor drains shall not be open to a natural drainage system;
  - d. Prior to site plan approval, an Emergency Contingency Plan shall be prepared and submitted through the Administrator to the Fire Chief and the Public Utilities Department, for review and approval; the Emergency Contingency Plan shall be prepared in accordance with the requirements of SARA Title III and shall be updated annually. In addition, the Emergency Contingency Plan shall include a plan for the site showing buildings and the locations of points of storage and use of hazardous materials.
2. Any use discharging sewage, industrial waste and/or non-process industrial waste not meeting the pre-treatment requirements of the Carthage Public Works Department or the provisions of the NC Administrative Code 2B.0201(d)(1)(B)(iv),(v) and (vii) and 2B.0203.
3. Landfills and sites for land application of residents or petroleum contaminated soils.

**D. Limitations or Impervious Area**

1. Calculation of impervious surface area shall include the pavement area of all existing and proposed internal public and private streets, driveways, rooftops, parking lots, patios, and all other impervious surfaces on a project-by-project basis. For purposes of calculating the percentage of impervious area coverage, the total project area shall be regarded as the actual area of the property plus the area within the rights-of-way of the internal streets.

**E. Density/Built-Upon Limitations in the Killets Creek WS III Critical Area**

1. Single Family Residential development shall not exceed one dwelling unit per acre on a project-by-project basis. No residential lot shall be less than one acre, except within an approved cluster development.
2. All other Residential and Non-Residential development shall not exceed twelve percent (12%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.

**F. Density/Built-Upon Limitations in the Little River WS III Balance of Watershed**

1. Single Family Residential development shall not exceed two dwelling units per acre on a project-by-project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development.
2. All Other Residential and Non-Residential development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

**G. Cluster Development**

Clustering of development is allowed under the following conditions where otherwise permitted in the Zoning District:

1. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in the District. Built-upon area or storm water control requirements of the project shall not exceed that allowed for the balance of watershed.
2. All built-upon area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.
3. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowner's association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a

maintenance agreement shall be filed with the property deeds, and individual property owners shall be responsible for maintenance.

#### **H. Buffers Required**

A minimum of thirty (30) foot vegetative buffer is required for development activities along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000(7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

#### **I. Special Density Allocation in the Little River WS III Balance of Watershed**

Special non-residential intensity allocation up to ten percent (10%) of the balance of the watershed may be developed for non-residential uses to seventy percent (70%) built-upon area on a project-by-project basis, provided that the following conditions are met:

1. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed;
2. The Board of Commissioners must approve the Special Non-Residential Intensity Allocation;
3. Projects must minimize built-upon surface area and incorporate Best Management Practices to minimize water quality impacts.

### **Sec. 100.69 Historic Preservation Overlay District**

#### **A. Purpose and Intent**

Historic areas are some of the most valued and important assets of the Town of Carthage. The establishment of Historic Preservation Districts is for the purpose of preserving the Town's heritage; safeguarding its character by preserving the district as a whole and any property therein that embodies important elements of its social, economic, cultural, political, or architectural history. The establishment of Historic Preservation district is also for the purpose of promoting the conservation of such districts for the education, pleasure and enrichment of residents of the district, the Town, and others; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the district as a whole, thus contributing to the improvement of the general health and welfare of the Town and the residents of the district.

#### **B. Historic Districts Established**

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

1. An investigation and report initiated by the Historic Preservation Commission describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared;
2. The Department of Cultural Resources, acting through the State Historical Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the Board of Commissioners within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Board of Commissioners of any responsibility for awaiting such analysis, and the Board of Commissioners may at any time thereafter take any necessary action to adopt or amend this District Ordinance with respect to Historic Districts;
3. The Board of Commissioners shall also refer the report and the proposed boundaries to the Planning Board for its recommendations prior to taking action to amend the District Ordinance;
4. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by this Section shall be prepared by the Historic Preservation Commission and shall be referred to the Planning Board for its review and comment according to the procedures set forth in the District Ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural Resources in accordance with the provisions of this Section;
5. Upon receipt of these reports and recommendation, the Board of Commissioners may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning provision.

**C. Certificate of Appropriateness Required**

1. From and after the designation of a historic district and the adoption of Review Criteria and Design Guidelines by the Historic Preservation Commission and approved by the Board of Commissioners, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, or other appurtenant features), no above-ground utility structure, nor any type of outdoor advertising sign or business identification sign shall be erected, altered, restored, moved, or demolished within the historic district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. Such a certificate shall be issued by the Commission prior to the issuance of a development permit. Such certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Section. A Certificate of Appropriateness shall be required whether or not a building permit is required;
2. The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks,

trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the Town, NCDOT, or public utility companies.

**D. Certificate of Appropriateness Procedure**

1. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Administrator. Applications for Certificates shall be considered by the Historic Preservation Commission at its next regular meeting, provided they have been filed, complete in form and content, at least thirty days (30) days prior to the regularly scheduled meeting of the Commission; otherwise, consideration shall be deferred until the following meeting;
2. The Commission shall, by uniform rule in its Rules of Procedure, require data as are reasonably necessary to determine the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required data has been submitted. Nothing shall prevent the applicant from filing, along with the application, additional relevant information bearing on the application;
3. Upon receipt of an application, the Administrator shall notify the Historic Preservation Commission at least seven (7) calendar days before its regularly scheduled meeting;
4. Prior to issuance or denial of a Certificate of Appropriateness the Commission shall conduct a public hearing in accordance with this Ordinance. The Administrator shall be responsible for notifying the affected parties in accordance with this Ordinance;
5. The Commissioner shall take action on the application and in doing so, shall apply the Review Criteria contained in this section;
6. The Commission's action on the application shall be approval, approval with modifications, or disapproval;
7. Prior to the final action on an application, the Commission, using the Review Criteria, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district;
8. The Commission shall cause to be entered into the minutes of its meeting the reasons for its action, whether it is approval, approval with modifications, or denial;
9. If the Commission fails to take final action upon any application within sixty (60) days after the complete application is submitted to the Administrator, the application shall be deemed to be approved;
10. If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in the plans for the proposed construction, reconstruction, alteration, restoration or moving.

## **E. Review Criteria**

### 1. Intent:

- a. It is the intention of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district shall be congruous with the special character of the district. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of the same or to impose architectural styles from particular historical periods. In considering new construction, the Commission shall encourage contemporary design that is harmonious with the character of the district;
- b. In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of such change or additions upon other structures in the vicinity;
- c. The Commission shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features that would be incongruous with the special character of the historic district or landmark.

### 2. Exterior Form and Appearance:

- A. The following criteria shall be considered, when relevant, by the Commission reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:
  - i. Lot coverage, defined as the percentage of the lot area covered by primary structures;
  - ii. Setback, defined as the distance from the lot lines to the building(s);
  - iii. Building height;
  - iv. Spacing of buildings, defined as the distance between adjacent buildings;
  - v. Exterior building materials;
  - vi. Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
  - vii. Surface textures;
  - viii. Roof shapes, forms and materials;

- ix. Use of local or regional architectural traditions;
  - x. General form and proportions of buildings and structure, and relationship of any additions to the main structure;
  - xi. Expression of architectural detailing, such as lintels, cornices, brick bond, and foundation materials;
  - xii. Orientation of the building to the street;
  - xiii. Scale determined by the size of the units construction and architectural detail in relation to the size of man and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
  - xiv. Proportion of width to height of the total building facade;
  - xv. Archaeological sites and resources associated with standing structures;
  - xvi. Appurtenant fixtures and other features such as lighting;
  - xvii. Structural condition and soundness;
  - xviii. Walls-physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape mass, building facades, or combinations of these;
  - xix. Ground cover or paving;
  - xx. Maintenance of pedestrian scale and orientation, as well as provision for safe pedestrian movement;
  - xxi. Color (new construction, additions, alterations, and repainting only and not for existing residences);
  - xxii. Effect of trees and other landscape elements.
- B. The Secretary of the Interior’s “Standard for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for Certificates of Appropriateness;
- C. Interior arrangement or design shall be exempt from review by the Historic Preservation Commission. Interior construction and/or reconstruction shall not require a Certificate of Appropriateness.

**F. Certain changes not prohibited**

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district that does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, alteration, restoration, or demolition of any such feature that the Building Inspector, Administrator or similar official shall certify in writing to the Commission is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent (a) the maintenance or (b) in the event of an emergency, the immediate restoration, of any existing, aboveground utility structure without approval by the Commission.

**G. Delay in Demolition**

1. An application for a Certificate of Appropriateness authorizing the demolition, removal, or destruction of a building structure or site within a historic district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The Commission shall reduce the period of delay if it finds the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period, the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure, or site. If the Commission finds that a building, structure, or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal;
2. In the case of demolition action by the Town, the application for such a certificate will first be reviewed by the Commission and secondly by the Board of Commissioners for final order of demolition or removal;
3. If the Commission has voted to recommend the designation of an area as a historic district and the final designation has not been made by the Board of Commissioners, the demolition or destruction of any building, structure, or site in the proposed district or on the property of the designated landmark may be delayed by the Commission for up to one hundred eighty (180) days or until the Board of Commissioners takes final action on the designation, whichever occurs first.

**H. Application Review by Commission**

As part of its review procedure, the Commission may view the premises and seek the advice of the Department of Cultural Resources or such other expert advice as it may deem appropriate.

**I. Appeal of Decision**

1. In any action granting or denying a Certificate of Appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment;
2. Written notice of the intent to appeal must be sent to the Commission, postmarked within thirty (30) days following the decision. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Moore County;



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

**J. Compliance**

1. Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Town Planner. Failure to comply with a Certificate of Appropriateness shall be a violation of the Zoning Ordinance. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for a period of six (6) months shall be considered as a failure to comply with a Certificate of Appropriateness;
2. Nothing contained in the Ordinance shall prohibit, impair, or limit in any way the power of the Board of Commissioners to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic Districts in violation of any provisions of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances of laws. (See N.C.G.S 160D-404(c).)

**K. State Recommendations**

The districts shall not be established, or the authority and powers of a Historic Preservation Commission be implemented until the Department of Cultural Resources shall have been given opportunity, in accordance with the provision of North Carolina General Statute 160A-400.2 (2), to make recommendations with respect to the establishment of the districts.

**L. Application**

Historic Preservation Overlay District designation shall be applied to the following area(s) as shown on the Official Zoning Map

1. (Reserved)

**Sec. 100.69A Downtown Retail Overlay District**

The Downtown Retail Overlay District (“DROD”) encompasses the central core of the Town of Carthage’s central business district, which includes significant historic structures and has historically been the heart of commercial life in Carthage. The purpose of this district is to preserve and revitalize this core, so that it can house unique businesses offering retail goods and services that will make the Carthage downtown both a destination for visitors and a vital part of the community for years to come. Moreover, the DROD is intended to be a place where small businesses can locate and thrive. To this end, the DROD allows and encourages

retail sales and services and entertainment establishments but it limits or prohibits incompatible uses that generate little or no tax revenue or are open only infrequently or at irregular times.

1. The Downtown Retail Overlay District (DROD) map as prepared by the Town of Carthage is hereby incorporated as a companion to the Zoning Map. The DROD consists of a subset of properties contained within the Central Business District.
2. All uses allowed in the Central Business District (CBD Zoning District) are allowed in the DROD with the exception of the following:
  - a. Residential uses are not allowed on the first floor within the DROD but are allowed in the remainder of the CBD Zoning District and on upper floors within the DROD.
  - b. Construction of new single family, multifamily, duplex or townhome residential buildings is prohibited within the DROD. Construction of new multifamily and duplex or townhome residential buildings is allowed within the balance of the CBD subject to the requirements of SR8.
  - c. Conversion of upper stories of buildings for residential use within the DROD shall require building/plan submittal demonstrating a maximum density of one (1) dwelling unit per 3,000 square feet of lot area with a minimum living space of 440 square feet.
  - d. Churches, synagogues, mosques, temples and other religious uses are prohibited within the DROD but are allowed within the remainder of the CBD Zoning District subject to demonstration of adequate available parking.
  - e. All residential uses in the DROD and Central Business District must be maintained in a safe and sanitary condition. Adequate parking must be available and cannot include public parking spaces on public streets.

## **TOWN OF CARTHAGE DEVELOPMENT ORDINANCE**

### **Division III**      **Definitions and Adoption**

#### **Sec. 100.70**      **Definitions**

For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein when not inconsistent with the context; words used in the present tense include the future tense, words in the plural number include the singular number, the words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The words “used for” shall include the meaning “designed for”.

#### **A.**      **General Definitions**

Accessory Use or Accessory Building (Non-residential). A subordinate non-residential use or building customarily incidental to and located on the same lot with the main use of building.

Accessory Use or Accessory Building (Residential). A non-commercial use or building customarily incidental and subordinate to but located on the same lot with the main residential use or building such as a private garage or carport, family garden, personal storage building, or workshop, all of which are totally for personal use.

Alcoholic Beverage Sales (ABS). A business located in the CBD, B-2, or TBD zoning district that is able to obtain an ABC license (required by the state to sell any alcoholic beverage) in order to operate and sell alcohol to customers, which complements their primary business (i.e. a restaurant, a bar and grill, a piano bar and of similarity).

Apartment. A room or suite of rooms in an multi-unit residential building, generally rented by the occupant, which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation to each separate unit.

Administrator. An employee or agent of the Town who is assigned primary responsibility for the administration and enforcement for the Development Ordinance.

Bed and Breakfast. A dwelling in which lodging for rent to the public, with or without meals, is provided for overnight guests for a fee.

Beehive. Any receptacle or container, or part of receptacle or container, which is made or prepared for the use of bees, or which is inhabited by bees. See G.S. 106-635(15).

Body Modification Services. Services other than tattooing designed to alter a person's appearance, including but not limited to body piercing. This use does not include plastic surgery, dental work, or other medical or dental procedures carried out by or under the supervision of a licensed doctor, dentist, or oral surgeon. Ear piercing when it is an accessory to the sale of jewelry, shall not be considered body modification.

Bona Fide Farm. Bona Fide farm purposes include the production of and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

Building. See "structure".

Building Height. The vertical distance measured from the average elevation of the finished grade to the topmost section of the roof.

Building Main. The principal structure which primary use of the property is undertaken.

Building Occupancy. See "Use".

Building setback line. See "Setback".

Common Open Space. The open space land held in common ownership by property or unit owners in a development, normally provided for in the declaration or restrictive covenants and normally in common use.

Conditional Zoning. A use of land permitted in Conditional Zoning District upon approval by the Board of Commissioners as part of the Conditional Zoning rezoning process, or a use of land permitted by Conditional Zoning authorized by the Board of Commissioners.

Condominium. Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.

Congregate Care Facility. A facility providing shelter and services for ambulatory individuals at least fifty-five (55) years of age that by reason of age, functional impairment, or infirmity may require meals, housekeeping, and personal care assistance. Congregate care facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

Cottage Industry. A small-scale industry where the owner/craftsman works <sup>\*added 8-21-17</sup> independently or directly with the employees. An artisan is a skilled manual worker who makes items that may be functional or strictly decorative. The products and services created are handmade, unique and distinctive given the fact that they are not mass produced. Custom products include wood working, furniture, sculpture, clothing, household items, tools, ceramics, jewelry, metal working, leather, fiber, crafts, bakery, and value-added food and beverage.

<sup>\*added 7-18-16</sup>

Day Care Center. A facility providing care for six (6) or more non-handicapped children, more than four (4) hours per day, for payment of a fee, but without transfer or assignment of custody.

Development Permit. A permit issued by the Town conferring the right to undertake and complete the development of and use of property.

Development Permit with Vested Rights. A permit authorized by the Board of Commissioners concerning the right to undertake and complete the development of and use of property under the terms and conditions of an approved site-specific development plan.

Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Dwelling, Single-family Attached. A residential building originally designed for 3 or more attached dwellings for separate families living independently of each other. These units are separated by property lines that run from the foundation to the roof and with a yard or public way on not less than two sides. These structures are constructed in accordance with the NC Residential Building Code. Some examples would include townhomes or condominiums.

Dwelling, Single-family Detached (Conventional or Modular). A detached dwelling unit containing sleeping, kitchen, and bathroom facilities constructed in accordance with the standards set forth in the NC Residential Building Code, used as a residence by 1 family.

Dwelling, Duplex. A residential building designed to house 2 separate families living independently of each other. Each unit is completely separate from the other by a wall extending from the ground to the roof. The property lines do not run from the foundation to the roof. These structures are built in accordance with the NC Residential Building Code.

Dwelling, Multi-family. A building containing 2 or more dwellings per lot, including apartment complexes (including senior citizen apartment complexes) or more than 1 duplex per lot. This does not include manufactured home parks, secondary detached dwelling units, planned unit developments, or nursing homes. These units would typically have separate living space for each inhabitant but are not separated by property lines. These structures might be multi-story or single story. These structures are built in accordance with the NC Commercial Building Code.

Dwelling Unit. An enclosure of one or more rooms providing complete independent living facilities for one family, including permanent facilities for living, sleeping, eating, cooking and sanitation within the separate enclosure.

Family. Any number of persons related by blood, adoption, or marriage or no more than (4) persons not related by blood, adoption or marriage, living together as a single housekeeping unit sharing the same domestic facilities. It does not include congregate residential care facilities; family care and group care facilities; foster homes for children; homes for the aged and infirmed; family care homes for the aged and infirmed; day care facilities; day care centers; and family day care homes; shelter homes for children and/or families including foster shelter homes and group shelter homes; adult day care centers; day nurseries; preschool centers; hospitals; nursing homes; sanitariums; and dormitories; fraternal organizations; or other organized social or institutional residential situations.

Family Day Care Home. A building used as a residence for a family which is also used to provide day care services on a temporary basis without transfer of custody for three (3) to five (5) unrelated children, for a fee. (The keeping of 1-2 children does not require a permit.).

Family Members, Direct. Direct lineal descendants (children, grandchildren, and great grandmother); and brothers, sisters, nieces, and nephews.

Familial Relationship. A "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Flea Market, Outdoor. A flea market, swap shop, or similar activity by whatever name, where the use involves the setting up of two or more booths, tables, platforms, racks, or similar display areas for the purpose of selling, buying, or trading merchandise goods, materials, products, or other items offered for sale outside an enclosed building. Flea markets shall not include any of the following activities which occur at the same location four or fewer days in any calendar year: garage sales, produce stands, or fundraising activities done by a nonprofit organization.

Frontage. The property abutting on one side of a street measured along the street right-of-way line.

Gross Floor Area. The total area of any buildings in the projects, including the basements, mezzanines, and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the store such as boiler rooms and maintenance shops.

Group Care Facility. A facility licensed by the State of North Carolina, (by whatever name it is called, other than “Family Care Home” as defined by this Ordinance), with support and supervisory personnel that provides room and board, personal care, or habilitation services in a family environment.

Group Residential Development A development where more than one principal residential building is permitted on a lot or any development where there are three (3) or more dwelling units in a building including attached dwelling units.

Handicapped. A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but does not include mentally ill persons who are dangerous to others as defined in section 122-58.2(1) b of the General statutes of North Carolina, or any amendments thereto.

Home Occupation, Customary. An occupation conducted incidental to the use of property as a dwelling unit, which does not adversely impact or change the residential character of the neighborhood. The incidental use of any dwelling by the occupant(s) for the purpose of receiving or transmitting messages by mail, record of bookkeeping, filing, address listing for applicable privilege license or tax identification and other similar activities which do not involve the on-site sale, delivery, distribution, reception, storage or manufacture of goods, products, or services shall not constitute a home occupation for the purpose of regulation under this ordinance.

Homestay (also known as Board and Rooming Houses, Bed & Breakfasts and Short-Term Rentals): A single family dwelling where up to four rooms are provided for lodging for a defined period of time. Meals may or may not be provided, but there is one common kitchen. The owner of the dwelling lives in or within (1) mile of the residence.

Hotel or Motel. A building which provides sleeping accommodations in six (6) or more rooms, commonly available for pay on a daily basis to transient or permanent guests.

Junk Yard. A lot or group of contiguous lots where more than six hundred (600) square feet of area is used for the dismantling or the storage of wrecked or used automobiles or the storage, sale, or dumping of dismantled or wrecked cars or their parts, or for storage of appliances, machinery and other salvage goods.

Kennel. An establishment wherein any person engages in business or practice, for fee, of boarding, breeding, grooming, letting for hire, or training of more than three (3) domesticated animals at anyone (1) time; or an establishment wherein any person engages in the business or practice, for a fee, of selling more than (1) litter of domesticated animals at anyone (1) or the selling of any three (3) individual domesticated animals (not defined as litter herein) at anyone (1) time. Domesticated animals, for the purpose of this ordinance, shall be defined as dogs, cats, or other generally acceptable household pets, Litter, for the purpose of this ordinance, shall be defined as the progeny resulting from the breeding of two (2)

domesticated animals. The following shall not constitute the operating 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 owner 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 or protection or guarding of residences or commercial establishments.

Landowner. Any owner of a legal or equitable interest in real property, including the heirs, devise, successors, assigns, and personal representative of such owner. The owner may allow a person holding a valid option to purchase, to act as his agent or representative for the purposes of submitting a proposed site-specific vesting plan in the manner allowed by this Ordinance.

Lot. A parcel of land, the boundaries of which are established by some legal instrument such as a deed or a recorded plat (but not tax maps) and which is recognized as a separate tract for purposes of transfer of title or lease of greater than three (3) years.

Lot, corner. A lot adjacent to or abutting on two (2) streets at their intersection.

Lot, front. On a corner lot, the front is the frontage with the least dimension at the street. Where the dimensions are equal, the front shall be designated by the owner.

Lot, interior. Any lot other than a corner lot.

Lot lines. The line forming the perimeter or boundary of the lot.

Lot, through. An interior lot having frontage on two (2) streets. Also called a double frontage lot.

Lot width. The distance from side lot line to side lot line measured at the required minimum front yard setback parallel to the front property line. For lots with a radial sideline(s), lot width may be measured at a front yard setback greater than the minimum required front yard setback. In such case the point where the minimum lot width is measured, shall become the front yard setback for that lot.

Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds, or a lot which is described by metes and bounds, the description of which has been so recorded, prior to the effective date of this Ordinance.

Manufacturing. The processing of raw products and materials into items for sale.

Mobile (Food) Vendor\* - see SR 39

Mobile Home. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was

substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis.

Mobile Home Class “A”. A multi-sectional mobile home constructed that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect the time of construction. A “double-wide”.

Mobile Home, Class “B”. A mobile home constructed that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction. A “single-wide”.

Mobile Home, Class “C”. A mobile home which does not meet the Class “A” or Class “B” definitions.

Mobile Home Park. A lot(s) or tract(s) of land used or intended to be used, leased, or rented for occupancy by mobile homes in conformity with the mobile home park provision of this Ordinance.

Mobile Home Park, Non-conforming. A lot(s) or tract(s) of one (1) and for two (2) or more mobile homes sharing common ownership and/or facilities and which do not qualify as individual mobile homes on individual lots and which park is not in conformance with all the requirements for the initial establishment for a mobile home park as defined above.

Modular Home; Building. Any building or structure which was pre-manufactured, all or in part, at some point other than the building site for assembly or installation later at the building site and which complies with the State of North Carolina Building Code. Further defined, such building may be assembled from pre-manufactured rooms, wall panels, frame units, or other factory manufactured parts, which may be fabricated of wood, concrete, metal, or other materials, and anchored on a permanent foundation or foundation material at the building site. This definition does not include mobile homes as defined in this Ordinance.

Net Residential Area (not land). That portion of a development or project site designated for residential lot and related common open space area excluding dedicated public ROW.

Nonconforming Use. Any use which legally existed on the effective date of this Ordinance, and which does not conform with each regulation of the zoning district in which it is located, including any nonconforming use legally recognized under a prior zoning ordinance.

Open Space. Any land area not occupied by buildings, structures, storage areas, open or enclosed balconies, patios, porches or decks, excluding, however, any land encroaching or located within a right-of-way or easement. Open area in any required setback or land used for sidewalks, landscaping and grassing shall be considered open space.

Parking Lot. An area or tract or partial tract of land used for the storage or parking of vehicles.

Planned Unit Development. A tract(s) of land under single corporation, firm, partnership, or association ownership, or otherwise under unified ownership or control, planned, and developed as integral unit in a



single development scheme or a well-defined series of development operations in accordance with an approved site plan.

Private Club. An establishment regulated by the North Carolina Alcohol and Beverage Control Commission (ABC) eligible for a permit to sell mixed drinks and other alcoholic beverages on premise without having to meet the quota for food service that would otherwise apply under ABC rules because it is not open to the general public but only to members and their guests.

Project Parcel. All of the property included in a development project.

Property. Means all property subject to zoning regulations and restrictions and zone boundaries within the zoning jurisdiction of the Town.

Public Sewage Disposal System. An approved sewage disposal system serving ten (10) or more connections, including municipal and sanitary district sewerage systems as well as “package” plants constructed in a location and to specifications approved by the County Sanitarian in consultation with the NC Division of Health System.

Public Water Supply System. An approved water supply system serving (10) or more connections, including municipal and sanitary district water systems as well as water systems designed to serve particular subdivisions at full development and constructed to specifications approved by the County Sanitarian in consultation with the NC Division of Health Systems.

Recreation or Travel Trailer. A vehicular, portable, structure built on a chassis designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified as a travel trailer by the manufacture of the unit; includes motor home, recreational vehicle, etc.

Residential Care Facility. A building or facility used primarily to provide residential, social, and personal care for children, the aged or others who suffer some limit on the ability for self-care, but where medical care is not a major service. It includes such uses as adult day care facilities, home for the aged and other like uses, which are not otherwise specifically defined.

Screen. A devise such as a fence or planting area used to visually separate property.

Series. The number of contiguous units (ex. 3 connected townhomes is a series)

Service Station. A lot or building where gasoline, oil, grease, and automobile accessories are supplied and dispensed to the motor vehicle trade, or where battery, tire, and other similar repair services are rendered.

Setback. The horizontal distance from the property line or street right-of-way line to the nearest part of the applicable building, structure, sign, or use, measured perpendicular to the line.

Site Specific Vesting Plan. A plan which has been submitted to the Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Sludge. Any solid, semisolid, or liquid waste generated from residential wastewater treatment plant.

Solar Energy System (SES)\*. - See SR38

Special Use Permit. – A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards.

Stacking Space. A space to store an automobile off-street while waiting in line for a drive-through service such as an automatic teller service, drive through restaurant, etc.

Street, Private. A vehicular travel way not dedicated as a public street or a dedicated but unaccepted vehicular travel way.

Street, Public. A public right-of-way for vehicular travel which has been constructed and then dedicated to and accepted by a municipality or the North Carolina Department of Transportation for public use or which has been otherwise obtained by such agencies for such use or which is proposed to be constructed and then dedicated to and accepted by such agencies as a public right-of-way for vehicular traffic for public use.

Structure. Anything constructed or erected which requires location on the ground or attached to something having location on the ground.

Structural Alterations. Any change, except for the repair or replacement, in the supporting members of a building such as load bearing wall, columns, beams, or girders.

Swine Farm. A tract of land devoted to raising animals of the porcine species served by or requiring animal waste systems having a design capacity of 600,000 pounds steady live weight or greater.

Tattooing. The placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.

Tattoo Parlors and Other Body Modification Services. An establishment whose principal business activity is the practice of tattooing and/or providing other body modification services.

Townhouse. A single-family dwelling unit constructed in a series or group of attached units with property lines separating each such unit.

Transmission Tower. A structure, either freestanding, supported by guy wires, or attached to a building, and accessory equipment related to broadcast services, private radio services, including AM, FM, two-way radio, television, and cable antenna television transmission, microwave transmission and facilities such as satellite dish receiving centers. This definition does not include electrical transmission distribution poles, towers, and line, personal satellite dishes, or structures not more than 35' in height.

Travel Trailer Parking Area. A parcel of land in which two (2) or more spaces are designed, occupied or intended for occupancy by trailers for transient dwelling purposes.

\*added 1-15-15

Use. The primary purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

Vested Right or Zoning Vested Right. The right to undertake and complete the development and use property under the terms and conditions of an approved site-specific development plan.

Wireless Telecommunication Tower. A tower supporting licensed or unlicensed wireless telecommunication facilities including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services by non-commercial entities in the Amateur Radio Service, Public Safety Radio Service, or licenses assigned to non-profit organizations, such as the Red Corps, Civil Air Patrol, Military Affiliated Radio Service (MARS) that are licensed by the Federal Communications Commission.

Yard. An open space located on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees, shrubbery or as otherwise provided herein. A yard is the area created by a setback.

Yard, Front. A yard extending across the full width of the lot and extending from the closest front wall of the building to the property line or established edge of a right-of-way, whichever is closer.

Yard, Rear. A yard extending across the full width of the lot and extending from the closest rear wall of the main building to the rear of the property.

Yard, Side. A yard which extends from the closest side wall of a building to the nearest side property line or the established edge of the street right-of-way, whichever is closer, if the lot is a corner lot.

## **B. Definitions Related to Adult Oriented Business**

Adult Oriented Business. An adult arcade, adult bookstore, or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor and adult health club), sexually oriented device business or any combination of the foregoing of any similar business, the preponderance of which is dedicated to activities as defined herein. As used in this Ordinance the following definitions shall apply:

Adult Arcade (also known as “peep show”). Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Bookstore or Adult Video Store. A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations that depict or describe “specified sexual activities” or “specified anatomical areas”; or

2. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”.

Adult Cabaret. A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:

1. Persons who appear nude or semi-nude; or
2. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Motel. A hotel, motel, or similar commercial establishment that:

1. Offers accommodations to the public for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe “specified sexual activities” or “specified anatomical areas: as one of its principal business purposes; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than (10) hours.

Adult Motion Picture Theater. A commercial establishment where, for any form of consideration , films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe “specified anatomical areas” or by “specified sexual activities”.

Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict “specified anatomical areas” or “specified sexual activities”.

Escort. A person who, for any tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency. A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

Nude Model Studio. Any place where a person who appears nude or semi-nude, or who displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of North Carolina or a college,

junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
3. Where no more than one nude or semi-nude model is on the premises at any one time.

Nude or A State of Nudity.

1. The appearance of a human anus, male genitals, or female genitals; or
2. A state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

Semi-nude. A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual Encounter Center. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling (including sexually oriented massaging) between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Devices. Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified Anatomical areas. Human genitals in a state of sexual arousal.

Specified Sexual Activities. Is and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female's breasts; or
2. Sex acts, actual or simulated, including intercourse, oral, copulation, or sodomy; or
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1, through 3, above

**C. Definitions Related to Signs**

Attached Sign: A sign which is mounted to a building wall, canopy, or cantilevered roof including projecting signs.

Billboard: See Off-Premise Sign.

Building Frontage: For purposes of Sec. 100.59 only, building frontage shall mean the vertical area or near vertical area (as in the case of a mansard-type roof) of either side of a building which is generally parallel to the street upon which said building has its physical address, or the side of the primary pedestrian entrance, whichever allows the most sign area.

Changeable Copy: Copy that is or can be changed manually in the field or through mechanical or electronic means, e.g. reader boards with changeable letters.

Freestanding Sign: A sign supported from the ground and which is wholly independent of any building, fence, vehicle, or object other than the sign structure for support.

Height of Sign: The height of a sign is the vertical distance from the nearest public road grade level or from the average site grade at the base of the sign (whichever the applicant prefers) to the level of the highest point of the sign structure.

Internal Illumination: A light source concealed or contained within the sign itself, such as a neon tube, which becomes visible in darkness by shining through a translucent surface.

Non-Conforming Sign: A sign that met all legal requirements when constructed but is not in compliance with this ordinance. An illegal sign is not a non-conforming sign.

Off-Premise Sign: Any sign which is not located on the premises that it identifies or advertises.

Off-Premise Directional Sign: Existing off premise signs whose primary purpose is to direct attention to a single particular establishment. Such signs shall not be attached to utility poles and are no greater than six (6) square feet in area.

Outdoor Advertising Signs: Any off premise, off-site, poster panel, billboard, or non-point-of-sale sign.

Parapet: That portion of any building wall that rises above the level of the roof line and is made of the same material and thickness as the building wall.

Portable Sign: Any sign designed or intended to be readily moved from one location to another, or which is self-supporting and rests upon the ground without the necessity of being attached to a foundation or other supporting structure or signs which are not permanently affixed to the building or ground. This includes signs with "A" frame supports, sandwich board signs, signs on wheels, trailers or truck beds, sidewalk or curb signs and temporary and windblown signs, as defined.

Portable Changeable Copy Sign: Any portable sign, as defined, which was originally intended or designed to have at least 75% of the area of any one (1) side dedicated to changeable copy area. Changeable copy is when letters or characters can be changed, replaced or rearranged on the face of the sign with relative ease. Changing time and temperature signs chalk boards and erasable banners are not considered changeable copy signs.

Premise: For the purpose of Sec. 100.59, premise includes any number of connected (attached) or separate (detached) buildings or establishments when obviously planned and developed as one interdependent project.

Projecting Sign: An attached sign which is erected on a building wall or structure and extends beyond the building wall more than twelve (12) inches.

Setback: The sign setback requirement is based on any part of the sign, including supports, which is closest to the road.

Sign: Any identification, description, animation, illustration, or device, illuminated or non-illuminated, which is visible from any public street right-of-way and which directs attention to any realty, product, service, place activity, person, institution, performance, commodity, firm, business or solicitation, including any permanently installed or situated merchandise or any emblem, painting, banner, poster, bulletin board, pennant, placard or temporary sign designed to identify or convey information, with the exception of state, municipal or national flags.

Temporary Sign: A sign intended or designed to be displayed for a relatively short period of time to inform the public of any unusual or special event such as banners and streamers and Portable or Windblown sign, as defined.

Windblown Signs: Any banner, balloon, disc, pennant, propeller spinner, string of flags or streamer, or other wind activated devices and including any inflatable objects such as a moored blimp or gas balloon.

#### **D. Definitions Related to Flood Damage Prevention**

\* See Town of Carthage Flood Damage Prevention Ordinance in Sec.100.63.

#### **E. Definitions Related to Water Supply Watersheds**

Balance of Watershed (BW): The remainder of a watershed outside the critical area.

Best Management Practices (BMP): A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

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

Built-Upon Area: Built-upon areas shall include that portion of development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas, (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of swimming pool are considered pervious.)

Cluster Development: Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing storm water run-off impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of these rules, planned unit developments and mixed-use development are considered as cluster developments.

Critical Area (CA): The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Development: Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Discharging Landfill: A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Existing Development: Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of these provisions based on at least one of the following criteria:

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon have received a valid local government approval to proceed with the project, or
2. Having an outstanding valid building permit as authorized by the General Statutes (N.C.G.S 160D-604).
3. Having an approved site-specific vesting plan as authorized by the General Statutes (N.C.G.S 160D-910 and G.S. 160D-102).

Industrial Development: Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or development of any product or commodity.

Landfill: A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of these provisions this term does not include composting facilities.

Major Variance: A variance from the minimum statewide watershed protection rules that results in the relaxation, by a factor greater than five percent of any buffer, density or built-upon area requirement under high density option; any variation in the design, maintenance or operation requirements of a wet detention



pond or other approved storm water management system; or relaxation by a factor greater than 10 percent of any management requirement under the low-density option. Where this ordinance is more stringent than the State's minimum water supply protection rules a variance to this ordinance is not a major variance as long as the result of the variance is not less stringent than the State's minimum requirement.

Minor Variance: A variance from the minimum statewide watershed protection rules that result in a relaxation, by a factor of up to five percent of any buffer, density or built-upon area requirement under the high-density option; or that results in a relaxation by a factor up to 10 percent (10%), or any management requirement under the low-density option.

Multi-Phased Development: A development containing 25 acres or more that is both of the following:

Submitted for development permit approval to occur in more than one phase.

Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

Non-residential Development: All development other than residential development, agriculture and silviculture.

Residential Development: Buildings for residences such as attached and detached single-family dwelling, apartment complexes, condominiums, townhouses, cottages, mobile homes, etc. and their associate buildings such as garages, swimming pools, storage buildings, gazebos, etc.

Sedimentation Control Permit: A permission granted by the State of North Carolina for a person to conduct a land disturbing activity pursuant to the Sedimentation Pollution Control Act of 1973, as amended.

Storm water Collection System: Means any conduit, pipe, channel, curb or gutter for the primary purpose of transporting (not treating) runoff. A storm water collection system does not include vegetated swales, swales stabilized with armoring or alternative methods where natural topography prevents the use of vegetated swales (subject to case-by-case review), curb outlet systems or pipes used to carry drainage underneath built-upon surfaces that are associated with development controlled by the provisions of 15A NCAC 2H.1003(c)(1).

Variance: A permission to develop or use property granted by the Board of Adjustment relaxing or waiving a water supply watershed management requirement that is incorporated into this Ordinance.

Water Dependent Structure: Any structure for which the use requires access to or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed: The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

## **F. Definitions Related to Subdivisions and Site Plans**

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

Easement: A grant of one or more of the property rights by the property owner of a portion of land for a specified purpose and use by the public, a corporation or other entities.

Lot: A separate and distinct unit of land described by either a metes and bounds description and/or subdivision of any other parcel of land, intended as a unit for transfer of ownership or for development or both.

Corner Lot: A lot abutting two (2) or more streets at their intersection.

Reverse Frontage Lot: A through lot which is not accessible from one of the parallel or non-intersecting streets upon which it fronts.

Through Lot: A lot abutting two (2) streets that do not intersect at the corner of the lot.

Reservation: An obligation, shown on a plat or site plan, to keep property free from development and available for public acquisition for a stated period of time. It is not a Dedication or conveyance.

Reserve Strip: A strip of land (usually only a few feet wide) owned privately, and set aside around a subdivision in order to prevent access to adjacent property by way of subdivision streets.

Required Drainage Channel: The theoretical stream bed section which is required to discharge the runoff from a one-hundred-year storm.

Storm, Ten (10)-Year: The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Storm, Twenty-five (25) Year: The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average once in twenty-five (25) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Storm, One-Hundred (100) Year: The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in one hundred (100) years and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Subdivider: A person engaging in the act of subdividing property.

Subdivision: See Sec. 100.65.

Street: A public right of way for vehicular travel which has been constructed and then dedicated to and accepted by the Town or the North Carolina Department of Transportation for public use or which has been otherwise obtained by such agencies for such use or which is proposed to be constructed and then dedicated to and accepted by such agencies as a public right-of-way for vehicular traffic for public use pursuant to this Ordinance. Street classifications are as follows;

Arterial Street: A Federal and/or State highway designed primarily for the movement of large volumes of vehicular traffic from one area to another; a thoroughfare.

Collector Street: A public way designed primarily to connect residential streets with arterial streets and/or provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor designation on the street.

Commercial/Industrial: A public way designed primarily to connect Minor Commercial/Industrial streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

Minor Street: A public way used primarily for providing direct access to abutting properties, and which does not have collector characteristics.

Minor Streets are further classified as:

**Residential**: Those streets whose primary function is to provide direct access to residential property. Minor residential streets typically collect traffic from not more than one hundred (100) dwelling units.

**Commercial-Industrial**: Those streets whose primary function is to provide direct access to commercial-industrial property.

**Cul-de-sac**: A short minor street having one end open to traffic and the other end permanently terminated with a vehicular turnaround.

Street, Half: A proposed vehicular travel way intended to be developed by constructing one-half of a required width of a street with the remainder to be provided at some future date.

Street, Private: A vehicular travel way not accepted as a public street.

Thoroughfare Plan: The Thoroughfare Plan as adopted by the Board of Commissioners and as may from time to time be amended.

## **Sec. 100.71            Adoption**

### **A.     Validity**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

**B. Effective Date**

This Ordinance shall become effective upon its adoption by the Board of Commissioners of the Town of Carthage, North Carolina”.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by the Board of Commissioners of the Town of Carthage, North Carolina.

\_\_\_\_\_  
Town Clerk  
\_\_\_\_\_  
Mayor

Appendix A of the Carthage Development Ordinance

I. Information to be submitted with applications for major and minor preliminary and final subdivision approval and for subdivision construction plans.

A. General Rules for Mapping and Graphics:

1. All maps shall be drawn to scale and the scale shall be not less than 1”=200’;
2. Prints may be blue-line or black-line, and map size shall be 24”x36”, except that final plats shall conform to the dimensional requirements of the Moore County Review Officer and Register of Deeds;
3. All preliminary and final plats shall be prepared by a registered land surveyor of the State of North Carolina in accordance with North Carolina General Statutes 47-30.

B. Information Required for Major and Minor Preliminary Subdivisions:

1. Title block containing the name of the subdivision. Include previous names for approved subdivisions (if any), date and revision date(s), North arrow and scale;
2. Name and owner of the tract, surveyor, engineer and/or land planner, their addresses, business telephone and fax numbers, and professional registration numbers (if any);

3. Zoning of the tract;
4. Acreage of track;
5. Acreage of dedicated open space;
6. The total number of lots proposed;
7. Smallest lot;
8. Total linear feet in streets as measured along the center line;
9. Setbacks: Provide a table of minimum building setbacks, including:
  - a. Front yard setback;
  - b. Side yard setbacks;
  - c. Any required landscaped or watershed buffers;
  - d. Rear yard setback;
  - e. Corner yard setback;
  - f. Buildable area per lot, in square feet;
  - g. Area to be covered by impervious surface for the project.
10. The location on the property of all existing property lines, political boundary lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts and drain pipes, water mains, and properties of historic significance;
11. Provide on plans, a listing of all approved conditions of conditional zoning, if applicable;
12. Indicate the names of adjoining property owners or subdivisions;
13. Indicate the zoning and existing land use of all adjoining property;

14. Indicate the location of all property lines, lot numbers, and lot dimensions. Indicate the location of the existing property boundaries and the location of intersecting lines of adjoining properties by metes and bounds;
15. Provide a tree survey showing the location of any buffers and trees therein required under the provisions of this Ordinance and the location of any special environmentally sensitive areas affecting the subdivision, including wetlands and floodplains;
16. Indicate the location of proposed parks, school sites, or other open space, if any. Indicate if the property is private or public. If public, indicate if it is proposed to be dedicated to the Town.
17. Indicate proposed streets, sidewalks, traffic control devices, street names, rights-of-way, roadway widths and approximate grades. Show typical cross sections;
18. Provide a grading plan delineating existing ground contours at two (2) foot intervals relative to sea level and proposed contours to be followed as part of the development plan. A full topographic survey and grid of the site is not required;
19. Submit a sketch vicinity map showing the proposed subdivisions in relationship to surrounding property and streets;
20. Provide a plan showing the location, type, and plantings required in the perimeter buffer, streetscape, and other required landscaping;
21. A traffic analysis in accordance with the requirements of the Town Engineering Standards and Specifications Manual shall be submitted with each major preliminary subdivision proposal;
22. Any other information the Administrator and Town Engineer may deem reasonable and necessary to determine compliance with this Ordinance.

C. Number and Type of Maps to be Submitted for Major and Minor Preliminary Subdivisions:

1. Minor Preliminary Subdivisions
  - a. Initial review by the Administrator: 3 prints
  - b. Review by the Administrator and staff: 7 prints
  - c. Town file as approved: 5 prints
2. Major Preliminary Subdivisions
  - a. Initial review by the Administrator: 3 prints

- b. Review by the Administrator and staff: 7 prints
- c. Review by the Planning Board: 10 prints
- d. Review by the Town Council: 10 prints
- e. Town file as approved: 5 prints

D. Information Required for Major and Minor Final Plats:

1. Title block containing subdivision names; vicinity map; legal description including township, county and state; the date of any revisions to the plat; a North arrow and deflection; scale in feet per inch and a bar graph; the name and address of the owner(s); and  
  
the name, address, registration number and seal of the engineer and/or surveyor;
2. Exact boundary lines of tract in heavy line, full dimensions of lengths and bearings, and intersecting boundaries of adjoining lands;
3. Street names, rights-of-way lines, pavement widths of tract and adjacent streets, and the location and dimensions of all easements;
4. Accurate descriptions and locations of all monuments, markers, and control points;
5. Location, purpose, and dimensions of areas to be used for other than residential purposes;
6. Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary, street, and setback line including dimensions, bearings, or deflection angles, radius, central angles, and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest tenth and angles to the nearest minute;
7. Boundaries of floodways and one hundred-year flood plains and water supply watershed designation;
8. Lots numbered consecutively throughout the subdivision;
9. The names of owners of adjoining properties;
10. Building setbacks (in table format);

11. Site calculations, including:
  - a. Total acreage;
  - b. Total number of lots;
  - c. Acreage in lots;
  - d. Acreage in street rights-of-way;
  - e. Linear feet of each individual street.

E. Number and Type of Map to be Submitted for Major and Minor Final Subdivisions.

1. Major and Minor Final Subdivisions:
  - a. Initial review by the Administrator: 3 prints;
  - b. Town file as approved: 1 original signed copy, 2 reproducible copies, and a computer disc in AutoCAD 2000 or later format.

F. Certificates to be Shown on Subdivision Plats as Appropriate:

1. Minor Preliminary Subdivisions:

Minor Preliminary Plat Approved

\_\_\_\_\_  
 Development Administrator  
 Town of Carthage

\_\_\_\_\_  
 Date

2. Major Preliminary Subdivision Plat Recommended for Approval

I hereby certify that this major preliminary subdivision was recommended for approval by the Planning Board of the Town of Carthage on the \_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
 Development Administrator

3. Major and Minor Final Plats and Exempt Plats (use the appropriate certificates):



1. **Certificate of Approval**

Approved for recording by the Town Council/Development Administrator of the Town of Carthage, North Carolina on the \_\_\_ day of \_\_\_\_\_, 20\_\_ pursuant to the Carthage Development Ordinance. Must be recorded within thirty (30) days of this date.

\_\_\_\_\_

Development Administrator

**Certificate of Survey and Accuracy**

I, \_\_\_\_\_, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that the ratio of precision as calculated is 1: \_\_\_\_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Seal or Stamp

\_\_\_\_\_

Surveyor

---

Registration #

**Certificate of Ownership and Dedication**

I (We) hereby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the Town of Carthage and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate all streets, alleys, walks, parks and other open space to public or private use as noted.

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Owner(s)

**NCDOT Construction Standards Certification**

(for NCDOT Streets)

Department of Transportation

Division of Highways

Proposed Subdivision Road

Construction Standards Certificate

Approved: \_\_\_\_\_

District Engineer

Date: \_\_\_\_\_

**Onsite Water and/or Sewer Note**

(where appropriate)

Note: (ALL the LOTS) or (LOTS # \_\_\_\_\_) as shown on this Plat are proposed to be served with onsite water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Moore County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such onsite system(s).

\_\_\_\_\_

Engineer/Surveyor License or Registration #

**Special Flood Hazard Area Note**

(word to represent actual situation)

Note: (Part of) this property (does)(does not) lie in a Special Flood Hazard Area

Reference: Flood Panel # \_\_\_\_\_

Date: \_\_\_\_\_ (of Panel)

(If part of the property is in a Special Flood Hazard Area, it shall be shown graphically on the plat.)

**Review Officer Certificate**

State of North Carolina

County of Moore

I, \_\_\_\_\_, Review Officer of Moore County, certify that the map or plat to which this certificate is affixed meets all statutory requirements for recording.

\_\_\_\_\_

Review Officer

\_\_\_\_\_

Date

**Register of Deeds Certificate**

State of North Carolina, \_\_\_\_\_ Moore \_\_\_\_\_ County

This instrument was presented for registration and recorded in Map Book \_\_\_\_\_, Page \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ (a.m.)(p.m.).

\_\_\_\_\_

Register of Deeds

**Certificate of Exemption**

I hereby certify that this plat is exempt from the development ordinance under the definitions of subdivision contained in N.C.G.S. 160D-802 and Section 2.2 of the Town of Carthage Development Ordinance for one of the following reasons:

- a. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards set forth in this Ordinance;
- b. The division of land into parcels larger than ten (10) acres where no street right-of-way dedication;
- c. The public purchase of strips of land for the widening or opening of streets; or
- d. The division of a tract of land in single ownership whose entire area is no greater than two (2) acres in three (3) or fewer lots where no street right-of-way dedication is involved and where the resulting lots are equal to or exceed the standards set forth in this Ordinance.
- e. Division by will.

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Development Administrator

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Surveyor

G. Information Required for Subdivision and Site Plan Construction Plans and “As Built”

Plans:

1. Plan and profile showing streets with complete design showing all horizontal curve data, vertical curve data, super elevation, etc. and DOT approvals such as driveway permits, DOT streets, etc.
2. Storm drainage design and calculations with size, material, grade, length and cover on all pipes, and size, type and location of all catch basins.
3. Location of all flood boundaries and temporary and permanent erosion control methods and proposed fill.
4. Utility system plan and profile to show size, material, cover, and grade on all mains; size, depth and type of all manholes, location of all hydrants and cleanouts, location of all services and meter boxes, and location of easements.
5. Distribution systems of electric, telephone, natural gas, cable antenna television and other services in right-of-way.
6. A copy of the approved State Erosion Control Plan and approval letter prior to beginning construction.
7. Any other required Federal, State or County permits.

II. Information required for site plans:

- A. Include the following on sheet(s) of 24 by 36 inches with a scale no less than one (1) inch equals fifty (50) feet for all major and minor site plans:

1. A title block showing the name, address, telephone and fax numbers of the developer and designer, North arrow and scale of drawings;

2. A map of the entire tract, including the boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all onsite and adjacent offsite easements, including but not limited to drainage, utility, public access, aerial utility, and permanent and temporary construction easements;
3. The location and dimension(s) of all existing and proposed building(s) on the site. Show the finished floor elevations for the existing building(s) and the proposed floor grades, including basement, for each floor of the proposed building(s), if applicable;
4. The location and dimension(s) of all proposed or existing impervious surfaces on the site, including but not limited to driveways, sidewalks, parking lots, loading and other vehicle use areas, and curb and median cuts;
5. Property numbers of adjacent properties and proposed addresses of the proposed project and proposed street names;
6. Indicate front, side, and rear setbacks for all existing and proposed structures;
7. Provide a listing of the following data:
  - a. Owner of the tract;
  - b. Zoning of the tract;
  - c. Area of the tract;
  - d. Existing and proposed gross square footage of building;
  - e. Amount of square footage utilized in vehicle use areas;



- f. Number of parking spaces proposed and required;
  - g. Number of handicapped parking spaces proposed and required;
  - h. Required and proposed minimum landscape area square footage;
  - i. Location of dumpsters and temporary toilets;
  - j. Residential uses: indicate maximum density allowed and the proposed density;
  - k. Indicate the amount of impervious area proposed;
  - l. Indicate the proposed linear footage of roads;
  - m. The conditional zoning conditions, if applicable;
  - n. Show locations, size and configuration of common open space for residential development, if applicable.
8. Indicate the owner, current zoning and present use of all contiguous properties (including property on opposite side of adjoining streets);
9. Indicate location and method of screening of all existing/proposed propane tanks, HVAC and mechanical systems;
10. Indicate dimensions and screening of dumpsters and recycling stations, if required. Label the intended use of the recycling station, if required;

11. Proposed elevations at control points such as driveways, ramps, etc.;
12. Vicinity map showing location of tract at scale of not less than one (1) inch equals five hundred (500) feet;
13. An engineering analysis of the provisions for the adequate disposition of natural and storm water in accordance with the design criteria and standards of the Town indicating location, sizes, types, and grades of ditches, catch basins and pipes, connections to existing drainage, and an erosion control plan. If applicable, include the density and impervious surface calculations required by the Watershed Protection Overlay District;
14. Submit drawings of building elevations showing the proposed exterior building materials and colors, height of proposed building, number of stories, and grade of each story, including basement, height and location;
15. Provide a topographic survey of the site certified by a registered land surveyor showing existing site features, existing contour lines at a minimum interval of two (2) feet that are field verified, all proposed contours: and U.S. Coast and Geodetic survey datum used for all elevations shown and showing location and elevation of benchmark used;
16. Certificate signed by the surveyor or engineer setting forth the source of title of the owner of the tract and the place of or record of the last instrument in the chain of title;
17. Plan of each floor of parking garage, if applicable;
18. Utility plan showing the sizes, composition and location of all existing underground utilities such as water, sanitary sewer, gas, electric, and telephone cables, fire protection infrastructure, etc. both within the property and in adjacent streets;
19. Show all road improvements required in conformance with thoroughfare plan, including any right-of-way dedications and traffic control devices;

20. Submit a plan showing the location for all outdoor lighting with illumination levels as they affect adjacent property;
21. Submit a plan showing the location and design of all landscaping improvements and landscape preservation areas;
22. A traffic analysis shall be submitted with each proposed site plan;
23. Approved street names and property numbers;
24. Any other information the Development Administrator may deem necessary to determine compliance with this Ordinance.

B. Number of plans to be submitted:

- a. For initial review by Administrator - 3 prints
- b. For review by Administrator and staff - 7 prints
- c. For review by the Planning Board - 14 prints
- d. For review by the Town Council - 10 prints
- e. For Town file after approval - 2 reproducible copies and a computer disc in AutoCAD 2000 or later format.

## Appendix D of the Carthage Development Ordinance Sample Decommissioning Plan for SES\*

This is a simple example decommissioning plan:

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Decommission Plan for Big Bright Solar Farm, located at

September 10, 2013

123 Edge-of-Town Rd.

Piedmontville, NC 21234

Prepared and Submitted by Solar Developer ABC, the owner of Big Bright Solar Farm.

As required by the Town/County of \_\_\_\_\_, Solar Developer ABC presents this decommissioning plan for Big Bright Solar Farm (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, will do the following as a minimum to decommission the project.

1. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.
2. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
3. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
4. Revegetate any cleared areas with warm season grasses that are native to the region (Piedmont or Sandhills regions), unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting.

All said removal and decommissioning shall occur within 12 months of the facility ceasing to produce power for sale.

The owner of the Facility, currently Solar Developer ABC, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property owner may have to remove the facility as outlined in the Conditional Zoning or Special Use Permit description in the event the operator of the farm does not fulfill this obligation.

\*added 1-15-15

The owner of the Facility will provide Town/County planning department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

SES Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Landowner (if different from SES Owner):

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix E of the Carthage Development Ordinance Abandonment and Decommissioning of SES\*

### Abandonment

A SES that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SES provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Zoning Administrator of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the SES<sup>5</sup>

1. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SES and restore the site to its condition prior to development of the SES within three hundred and sixty (360) days of notice by the Zoning Administrator.
2. If the responsible party (or parties) fails to comply, the Zoning Administrator may remove the SES, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SES and restore the site to a **non-hazardous condition**.

Some resources regarding decommissioning of SES:

- First Solar (leading manufacturer of Cadmium Telluride PV modules) has a pre-funded recycling program for all of their modules:  
[www.firstsolar.com/Sustainability/Environmental/Recycling-Service](http://www.firstsolar.com/Sustainability/Environmental/Recycling-Service)
- PV Cycle ([www.pvcycle.org/](http://www.pvcycle.org/)) European PV recycling program. A good source for an example of a large scale PV module recycling program and for information on PV recycling.
- Solar Energy Industries Association (SEIA) information on PV recycling:  
[www.seia.org/policy/environment/pv-recycling](http://www.seia.org/policy/environment/pv-recycling)
- NC DENR information on electronics recycling in NC
- Silicon Valley Toxics Coalition (SVTC) Solar Scorecard: [www.solarscorecard.com](http://www.solarscorecard.com)

- Green Guys, company in NC offering recycling services to the solar industry  
greenguys@pcgsolar.com
- 

<sup>5</sup> Anywhere reference is made to restoring the parcel condition prior to development of the SES (including removal of gravel, roads, and fencing), less restoration is acceptable when it is requested in writing by the parcel owner.

### **Current US PV Module Recycling Regulation:**

End-of-life disposal of solar products in the US is governed by the Federal Resource Conservation and Recovery Act (RCRA), and state policies that govern waste. To be governed by RCRA, panels must be classified as hazardous waste. To be classified as hazardous, panels must fail to pass the Toxicity Characteristics Leach Procedure test (TCLP test). Most panels pass the TCLP test, are classified as non-hazardous and are not regulated.

