

Growth Management Ordinance

Town of
Oriental, NC

Adopted January 13, 1999

Effective February 1, 1999

Amendments through April 10, 2006

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**ARTICLE I
GENERAL PROVISIONS**

**Section 1
Short Title**

This chapter shall be known and may be cited as the Oriental Growth Management Ordinance.

**Section 2
Authority**

- 1) This chapter is adopted pursuant to the authority contained in Article 19, Chapter 160A; Article 4, Chapter 113A; and Article 21, Chapter 143 of the North Carolina General Statutes.
- 2) Whenever any provision of this chapter refers to or cites a section of the North Carolina General Statutes, Court Ruling, State or Federal Departmental Rule or Regulation and that section is later amended or superseded, the chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

**Section 3
Jurisdiction**

- 1) This chapter shall be effective throughout the Town's planning jurisdiction. The Town's planning jurisdiction comprises the area within the corporate boundaries of the Town. Such planning jurisdiction may be modified from time to time in accordance with Section 160A-360 of the North Carolina General Statutes.
- 2) In addition to other locations required by law, a copy of a map showing the boundaries of the Town's planning jurisdiction shall be available for public inspection in the Town Hall.

**Section 4
Effective Date**

The provisions in this chapter were originally adopted and became effective on February 1, 1999.

**Section 5
Relationship to Land Use Plan**

It is the intention of the Town Commissioners that this chapter implement the planning policies adopted by the Town Commissioners as reflected in the land use plan and other planning documents. While the Town Commissioners reaffirm their commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the Town Commissioners hereby express their intent that neither this chapter or any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

Section 6

No Use of Land or Buildings Except in Conformity With Chapter Provisions

- 1) Subject to Article VII of this chapter (Nonconforming Situations), no person may use or occupy any land or buildings or authorize or permit the use or occupancy of land or buildings under their control except in accordance with all of the applicable provisions of this chapter.
- 2) For purposes of this section, the “use” or “occupancy” of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 7

Fees

- 1) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for land use permits, special use permits, growth management ordinance amendments, variances, appeals, other administrative relief, and site plan review. The amount of the fees charged shall be as set forth in the Town’s budget or as established by resolution of the Town Commissioners filed in the office of Town Hall.
- 2) Fees established in accordance with subsection (1) shall be paid upon submission of a signed application or notice of appeal.

Section 8

Severability

It is hereby declared to be the intention of the Town Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the

incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

**Section 9
Computation of Time**

- 1) The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- 2) Whenever a person has the right, or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

**Section 10
Miscellaneous**

- 1) As used in this ordinance, words importing the masculine gender include the feminine and neuter.
- 2) Words used in the singular in this ordinance include the plural and words used in the plural include the singular.

**Sections 11 through 19
Reserved**

**ARTICLE II
ADMINISTRATIVE MECHANISMS**

PART I - PLANNING BOARD

Section 20

Appointment and Terms of Planning Board Members

- 1) There shall be a Planning Board consisting of five members appointed by the Oriental Town Commissioners.
- 2) Planning Board members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. Initially, two (2) members shall be appointed for three-year terms, two (2) members shall be appointed for two-year terms and one (1) member shall be appointed for a term of one (1) year. Vacancies may be filled for the unexpired terms only.
- 3) Members may be appointed to not more than two complete successive terms. After expiration of two complete successive terms, members may continue to serve until a replacement is appointed.
- 4) Planning Board members may be removed by the Town Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve months period or for any other good cause related to performance of duties.
- 5) If a member moves outside the Town, that shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed by the Town Commissioners.

Section 21

Meetings of the Planning Board

- 1) The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 69 (Applications to be Processed Expeditiously).
- 2) Since the board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles II, III, IV, and V. However, it shall conduct its meetings to obtain necessary information and to promote the full and free exchange of ideas.
- 3) Minutes shall be kept of all board proceedings.

- 4) All board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

Section 22
Quorum and Voting

- 1) A quorum for the Planning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the board to take official action.
- 2) All actions of the Planning Board shall be taken by majority vote, a quorum being present.
- 3) A roll call vote shall be taken upon the request of any member.

Section 23
Planning Board Officers

- 1) At its first meeting in June each year, the Planning Board shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairperson and preside over the board's meetings, one member to serve as vice-chairperson, and one member to serve as secretary. The persons so designated shall serve in these capacities for terms of one year. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).
- 2) The chairperson shall decide all points of order and procedures, subject to the board's by-laws and rules of procedure, and shall vote on all matters decided by the Board. He or she shall appoint any committees found necessary to investigate any matters before the board.
- 3) The vice-chairperson shall serve as acting chairperson in the absence of the chairperson, and at such times, shall have the same duties and powers as the chairperson.
- 4) The secretary shall keep minutes of all the Planning Board meetings.

Section 24
Powers and Duties of Planning Board

- 1) The Planning Board may:

- (a) Acquire and maintain in current form such basic information and material as are necessary of past trends, present conditions, and forces at work to cause change in these conditions;
 - (b) Identify needs, and problems growing out of those needs;
 - (c) Determine objectives to be sought in development of the area;
 - (d) Establish principles and policies for guiding action in development of the area;
 - (e) Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area;
 - (f) Prepare and recommend to the Town Commissioners ordinances promoting orderly development along lines indicated in the comprehensive plan and advise the Town Commissioners concerning proposed amendments of such ordinances;
 - (g) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan;
 - (h) Keep the Town Commissioners and the general public informed and advised as to those matters; and
 - (i) Perform any other duties that may lawfully be assigned to it.
- 2) The Planning Board may adopt rules and regulations governing its procedures and operations consistent with the provisions of this chapter.

Section 25
Advisory Committees

- 1) From time to time, the Town Commissioners may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, the Town Commissioners may appoint advisory committees to consider the thoroughfare plan, bikeway/greenway plans, economic development plans, etc.
- 2) Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the Town Commissioners shall be made by the Planning Board.

- 3) Nothing in this section shall prevent the Town Commissioners from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Town Commissioners.

**Sections 26 through 28
Reserved**

PART II - BOARD OF ADJUSTMENT

**Section 29
Appointment and Terms of Board of Adjustment**

- 1) There shall be a Board of Adjustment consisting of five (5) members and two (2) alternates.
- 2) Board of Adjustment regular members and alternates shall be appointed by the Oriental Town Commissioners for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Initially, two (2) members shall be appointed for three-year terms, two (2) members shall be appointed for two-year terms, and one (1) shall be appointed for a one-year term. Vacancies may be filled for the unexpired terms only.
- 3) Members may be appointed to not more than two successive complete terms. After expiration of two complete successive terms, members may continue to serve until a replacement is appointed.
- 4) Regular Board of Adjustment members may be removed by the Town Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Town Commissioners shall hold a hearing on the removal before it becomes effective.
- 5) If a regular or alternate member moves outside the Town, that shall constitute a resignation from the board, effective upon the date a replacement is appointed.

Section 30
Meetings of the Board of Adjustment

- 1) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 69 (Applications to be Processed Expediently).
- 2) The board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles II, III, and IV.
- 3) All meetings of the board shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

Section 31
Quorum

- 1) A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.
- 2) A member who has withdrawn from the meeting without being excused as provided in Section 32 shall be counted as present for purposes of determining whether a quorum is present.

Section 32
Voting

- 1) That the Town Board has determined that the town does not presently have an adopted comprehensive plan within the meaning of section 214 of the GMO and that the Town Board has determined that the following amendment to section 32 of the GMO is reasonable and in the public interest because it makes the ordinance consistent with changes in state statutes that become effective earlier this calendar year.
- 2) The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision or determination of the administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance. For the purpose of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite supermajority. All other actions of the Board of Adjustment shall be taken by a majority vote.

- 3) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (3) or has been allowed to withdraw from the meeting in accordance with subsection (4).
- 4) A member of the board or any other body exercising the functions of a board of adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, the following:
 - (a) a member having a fixed opinion prior to hearing the matter that is not susceptible to change;
 - (b) a member having undisclosed ex parte communications;
 - (c) a member having a close familial, business, or other associational relationship with an affected person; or
 - (d) If a member has a financial interest in the outcome of the matter.
- 5) If an objection is raised to a member's participation and that member does not recuse him/herself, the remaining members shall be majority vote rule on the objections.
- 6) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- 7) A roll call vote shall be taken upon the request of any member.

Section 33
Board of Adjustment Officers

- 1) At its first regular meeting in June, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairperson and preside over the board's meetings and one member to serve as vice-chairperson. The persons so designated shall serve in these capacities for terms of one year. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).
- 2) The chairperson, or any member temporarily acting as chairperson, may administer oaths to witnesses coming before the board.

**Section 34
Powers and Duties of Board of Adjustment**

- 1) The Board of Adjustment shall hear and decide:
 - (a) Appeals from any order, decision, requirement, or interpretation made by the administrator, as provided in Section 91.
 - (b) Applications for variances, as provided in Section 92.
 - (c) Questions involving interpretations of the growth management map, including disputed district boundary lines and lot lines, as provided in Section 93.
 - (d) Any other matter the board is required to act upon by any other town or county ordinance.
- 2) The board may adopt rules and regulations governing its procedures and operation not consistent with the provisions of this chapter.

**Sections 35 through 39
Reserved**

PART III - LAND USE ADMINISTRATOR

**Section 40
Land Use Administrator**

The primary responsibility for administering and enforcing this ordinance may be assigned to one or more individuals by the Oriental Board of Commissioners. The person or persons to whom these functions are assigned shall be referred to in this chapter as the “land use administrator” or “administrator”. The term “staff” is sometimes used interchangeably with the term “administrator”.

**Section 41 through 45
Reserved**

PART IV - ORIENTAL BOARD OF COMMISSIONERS

**Section 46
The Oriental Board of Commissioners**

- 1) The Oriental Board of Commissioners shall be referred to as the “Town Commissioners.”
- 2) In considering proposed changes in the text of this chapter or in the growth management map, the Town Commissioners shall act in their legislative capacity and must proceed in accordance with the requirements of Article XIII.
- 3) The Town Commissioners, in considering special use permit applications, act in a quasi-judicial capacity and are required to observe the procedural requirements detailed in Article III and Article V.

**Section 47 thru 49
Reserved**

ARTICLE III PERMITS

PART I - PERMITS REQUIRED

Section 50 Permits Required

- 1) The use made of property may not be changed (see Section 150), clearing, grading or excavation may not be commenced, and buildings or other structures may not be constructed, erected, moved, or altered except in accordance with and pursuant to one of the following permits:
 - (a) A land use permit issued by the administrator; or
 - (b) A special use permit issued by the Town Commissioners.
- 2) Land use permits and special use permits are issued under this chapter only when a review of the application submitted, including the plans submitted, indicates that the development will comply with the provisions of this chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued and all development shall occur strictly in accordance with such approved plans and applications.
- 3) A land use permit or special use permit 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) and shall identify the property involved and the proposed use. The permit shall incorporate the plans submitted and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All special use permits shall be recorded in the Pamlico County Registry after execution by the record owner as provided in Section 66.

Section 51 No Occupancy or Use of Lots Until Requirements Fulfilled

Issuance of a special use or land use permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Sections 57, 63, and 64, the intended use may not be commenced or no building may be occupied until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of a special use permit have been met.

Section 52

Who May Submit Permit Applications/Submission Requirements

- 1) Applications for land use or special use permits shall be made by the 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 may make application in the name of such owners, lessees, or contract vendees).
- 2) The administrator may require an applicant to submit evidence of his authority to submit the application in accordance with subsection (1) whenever there appears to be a reasonable basis for questioning this authority.
- 3) All applications for permits requiring the Town Commissioners approval shall be submitted to the administrator 20 calendar days prior to the date of Town Commissioners' meeting at which the permit will be reviewed. If the submission deadline date falls on a Saturday, the application must be received by the preceding Friday. If the submission deadline falls on Sunday, the application must be received by the following Monday.

Section 53

Applications To Be Complete

- 1) All applications for land use or special use permits must be complete before the permit-issuing authority will consider the application.
- 2) An application is complete when it contains all the information necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this chapter.
- 3) 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. In cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this chapter, such as applications for land use permits to construct single-family or two-family houses, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

Section 54

Staff Consultation Before Formal Application

- 1) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this

chapter, preapplication consultation between the developer, the administrator and the planning board is encouraged. Applicants for a special use permit are encouraged to arrange a preapplication consultation at least 10 days prior to the application deadline.

- 2) To assure applicant's understanding of fire and emergency department limitations, a consultation with the Fire Marshall/Emergency Management Coordinator or his designated agent and the local Fire Chief may be required by the Land Use Administrator.

Section 55

Staff Consultation After Application Submitted

- 1) Upon receipt of a formal application for a land use or special use permit, the administrator shall review the application and confer with the applicant to ensure that he understands the administrator's interpretation of the applicable requirements of this chapter, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.
- 2) If the application is for a special use permit, the administrator shall place the application on the agenda of Town Commissioners 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 shall reject the application and inform the applicant of the reasons for the incompleteness.

Section 56

Land Use Permits

- 1) A completed application form for a land use permit shall be submitted to the administrator by filing a copy of the application with the administrator.
- 2) The administrator shall issue the land use permit unless he finds, after reviewing the application and consulting with the applicant as provided in Section 55, that:
 - (a) The requested permit is not within his jurisdiction according to the Table of Permissible Uses; or
 - (b) The application is incomplete; or
 - (c) 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 variance has been granted or

those the applicant is not required to comply with under the circumstances specified in Article VII, Nonconforming Situations).

Section 57
Authorizing Use or Occupancy Before Completion of Development Under Land Use Permits

In cases when, because of weather conditions or other factors beyond the control of the land use permit recipient (exclusive of financial hardship), it would be unreasonable to require the land use permit recipient to comply with all of the requirements of this chapter prior to commencing the intended use of the property or occupying any buildings, the Town Commissioners may authorize the commencement of the intended use or the occupancy of buildings if the permit recipient provides a certified check, irrevocable letter of credit, performance bond, certificate of deposit, or other security satisfactory to the administrator for 125 percent of the cost of the required improvements to ensure that all of the requirements of this chapter will be fulfilled within a reasonable period determined by the Town Commissioners. In no case, however, shall such period exceed twelve months. All securities shall be the same as cash and shall be redeemable within the corporate limits of the Town of Oriental.

Section 58
Special Use Permits

- 1) An application for a special use permit shall be submitted to the Planning Board for review by filing a copy of the application with the administrator. The Planning Board shall make a recommendation to the Board of Commissioners concerning the issuance of a special use permit.
- 2) Subject to subsection (3), the Town Commissioners shall issue the requested special use permit unless they conclude, based upon the information submitted at the hearing, that:
 - (a) The requested permit is not within its jurisdiction according to the table of permissible uses; or
 - (b) The application is incomplete; or
 - (c) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in Article VII, Nonconforming Situations).
- 3) Even if the Town Commissioners find that the application complies with all other provisions of this chapter, they may still deny the permit if it concludes,

based upon the information submitted at the hearing as provided under Section 103, that if completed as proposed, the development:

- (a) Will materially endanger the public health or safety; or
 - (b) Will substantially injure the value of adjoining or abutting property; or
 - (c) Will not be in harmony with existing development and uses within the area in which it is to be located; or
 - (d) Will not be in general conformity with the land use plan, thoroughfare plan, or other plan, officially adopted by the Town Commissioners.
- 4) No special use permit shall be approved until a public hearing has been held by the Town Commissioners.
- 5) The administrator shall publish a notice of the public hearing once a week for two successive weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date affixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.
- 6) The administrator shall mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of the properties any portion of which abut the property involved in the permit request.
- 7) The notice required by this section shall:
- (a) State the date, time, and place of the public hearing;
 - (b) Summarize the nature and character of the permit request;
 - (c) Reasonably identify the property affected by the permit request;
 - (d) State that the full permit request application can be reviewed at the office of the administrator; and
 - (e) State that substantial changes in the permit request may be made following the public hearing.
- 8) The administrator shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the Town Commissioners' intention that failure to comply with any of the notice provisions (except those set forth in subsection (6)) shall not render any permit request invalid.

- 9) The Town Commissioners are required to take final action on a special use permit request within 65 days preceding the first meeting to consider the application, since inordinate delays can result in the applicant incurring unnecessary costs.

Section 59

Burden of Presenting Evidence; Burden of Persuasion

- 1) The burden of presenting a complete application (as described in Section 53) to the Town Commissioners shall be upon the applicant. However, unless the administrator informs the applicant in what way the application is incomplete and offers the applicant an opportunity to complete application, the application shall be presumed to be complete.
- 2) Once a completed application has been submitted, the burden of presenting evidence to the Town Commissioners sufficient to lead them to conclude that the application should be denied for any reasons stated in Section 58(2) shall be upon the party or parties urging this position.
- 3) 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 of the reasons set forth in Section 58(3) rests on the party or parties urging that the requested permit should be denied.

Section 60

Recommendations on Special Use Permit Applications

- 1) When presented to the Town Commissioners at the hearing, the application for a special use permit shall be accompanied by a report setting forth the Planning Board's proposed findings concerning the application's compliance with Section 53 (Application To Be Complete) and the other requirements of this chapter, as well as any recommendations for additional requirements to be imposed by the Town Commissioners.
- 2) If the Planning Board proposes a finding or conclusion that the application fails to comply with Section 53 or any other requirement of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed finding or conclusion.

Section 61

Town Commissioners' Action on Special Use Permits

In considering whether to approve an application for a special use permit, the Town Commissioners shall proceed according to the following format:

- 1) The Town Commissioners shall consider whether the application complies with all of the applicable requirements of this chapter. If a motion to this effect passes, the Town Commissioners need not make further findings concerning such requirements. If such a motion fails or is not made, a motion shall be made that the application be found not in compliance with one (1) 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 Commissioners to be unsatisfied through this process.
- 2) If the Town Commissioners conclude that the application fails to comply with one (1) or more requirements of this chapter, the application shall be denied. If the Town Commissioners conclude that all such requirements are met, they shall issue the permit unless they adopt a motion to deny the application for one (1) or more reasons set forth in Section 58(3). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Section 62

Additional Requirements on Special Use Permits

- 1) In granting a special use permit, the Town Commissioners may 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:
 - (a) Will not endanger the public health or safety;
 - (b) Will not injure the value of adjoining or abutting property;
 - (c) Will be in harmony with the existing development and uses within the area in which it is to be located; and
 - (d) Will be in conformity with the land use plan, thoroughfare plan, or other plan, officially adopted by the Town Commissioners.
- 2) The Town Commissioners may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
- 3) The Town Commissioners may attach to a permit a condition limiting the permit to a specified duration.
- 4) All additional conditions or requirements shall be entered on the permit.

- 5) 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.
- 6) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Sections 58(2) or (3).

Section 63

Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits

- 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 Town Commissioners may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a certified check, irrevocable letter of credit, performance bond, certificate of deposit, or other security satisfactory to Town Commissioners for 125 percent of the cost of the required improvements to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months).
- 2) When the Town Commissioners impose additional requirements upon the permit recipient in accordance with Section 62, or when the developer proposes, in the plans submitted, to install amenities beyond those required by this chapter, the Town Commissioners may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if they specify a date by which or a schedule according to which such requirements must be met, or each amenity installed and if they conclude that compliance will be ensured as the result of any one or more of the following:
 - (a) Surety, satisfactory to the Town Commissioners, is furnished;
 - (b) 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;
 - (c) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 114 (Penalties and Remedies for Violations) and Section 115 (Permit Revocation);
 - (d) An irrevocable letter of credit that can be executed at a local bank.

Section 64

Completing Developments in Phases

- 1) If a development is constructed in phases or stages in accordance with this section, then, subject to the provisions of Section 51 (No Occupancy or Use of Lots Until Requirements Fulfilled) and Section 63 (exceptions to Section 51) shall apply to each phase or stage as if it were the entire development.
- 2) The developer shall submit plans that clearly show the various phases or stages of the proposed development and that the requirements of this chapter will be satisfied with respect to each phase or stage.
- 3) If a development that is to be built in phases or stages includes common area improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development), then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one or more phases or stages of the entire development. Once a schedule of improvements has been approved and made part of the permit by the Town Commissioners, no land may be used or no buildings may be occupied except in accordance with the schedule approved as part of the permit, provided that:
 - (a) If the improvement is one required by this chapter then the developer may utilize the provisions of Section 63(1);
 - (b) If the improvement is an amenity not required by this chapter or is provided in response to a condition imposed by the Town Commissioners, then the developer may utilize the provisions of Section 63(2).

Section 65

Expiration of Permits

- 1) Land use and special use permits shall expire automatically if, within one year after the issuance of such permits, 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.
- 2) If, after some physical alteration to land or structures begins, and such work is discontinued for a period of one year, then the land use or the special use permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 68.

- 3) The permit-issuing authority may extend for a period up to six months the date when a land use or special use permit would otherwise expire pursuant to subsections (1) or (2) if it concludes that (i) the permit has not yet expired, (ii), the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months (for a total period not to exceed two years) upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
- 4) The special use permit within the jurisdiction of the Town Commissioners is issued when the Town Commissioners vote to approve the application and issue the permit. A land use permit within the jurisdiction of the administrator is issued when either of the following takes place:
 - (a) 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
 - (b) 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, such as having the permit executed by the property owner so it can be recorded if required under Section 66(2).
- 1) This section shall be applicable to permits issued prior to the date this section becomes effective.

Section 66
Effect of Permit on Successors and Assigns

- 1) Land use or special use permits 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 covered under a permit continues to be used for the purposes for which the permit was granted, then:
 - (b) 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
 - (c) 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 (2)) of the existence of the permit at the time they acquired their interest.

- 1) Whenever a special use permit is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgement that the permit has been issued so that the permit may be recorded in the Pamlico County Registry and indexed under the record owner's name as grantor.

Section 67

Amendments to and Modifications of Permits

- 1) A minor modification or change in a permit (including an approved plan), that is clearly within the Growth Management Ordinance is permissible with the approval of the permit issuing authority. Such permission may be obtained by a written application and noted on the previously approved permit or plan.
- 2) A major modification or change in a permit (including an approved plan), is when there is more than one minor modification or change of use being currently proposed or previously granted. Such change or modification will be processed as a new application. If such requests are required to be acted upon by the Town Commissioners, new conditions may be imposed in accordance with Section 62, but the applicant retains the right to reject such additional conditions by withdrawing his request for a modification or change and may then proceed in accordance with the previously issued permit.
- 3) The administrator and the Planning Board representative shall determine whether modification of, or changes to permits fall within the categories set forth above in subsections (1) and (2).
- 4) Approval of all modifications or changes must be given in writing and approval noted on the previously approved permit or plan.

Section 68

Reconsideration of Board Action

- 1) Whenever the Town Commissioners disapprove an application for a special use permit or the Board of Adjustment disapproves 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:

- (a) Circumstances affecting the property that is the subject of the application have substantially changed; or
 - (b) 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 (see Section 116). However, such a request does not extend the period within which an appeal must be taken.
- 2) The Town Commissioners or the 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.
- 3) For purposes of determining fees, resubmission of an application shall be treated as a new application.

Section 69
Applications to be Processed Expeditiously

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

Section 70
Maintenance of Common Areas, Improvements, and Facilities

The recipient of any land use or special use permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities, required by this chapter or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

PART II – SUBDIVISIONS

Section 71
General Provisions

The provisions of this ordinance are adopted under authority granted by the General Assembly of the State of North Carolina, in General Statutes 160A, Article 19. This ordinance shall be known as the "Subdivision Regulations of the Town of Oriental, North Carolina", and may be cited as "Subdivision Regulations". These regulations shall govern all subdivisions of land within the corporate limits of the Town of Oriental. The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land within the corporate limits of the Town of Oriental in order to promote the public health, safety, and general welfare of the community as authorized in N.C. General Statutes Section 160A-372.

- 1) Duty of the Register of Deeds and Clerk of Court: The Town of Oriental shall file a copy of this ordinance with the Register of Deeds of Pamlico County. Thereafter, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the governing body as required by this ordinance and until this approval on shall have been entered the face of the plat in writing by the Chairman of the Town Planning Board. The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the Town that has not been approved in accordance with the ordinance, nor shall the Clerk of Superior Court of Pamlico County order or direct the recording of a plat if the recording would be in conflict with this Section. The owner of the land shown on a subdivision plat submitted for recording or his authorized agent shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of the Town.
- 2) Final Plat Approval Required: A final plat shall be prepared, approved, and recorded, pursuant to the provisions of this ordinance when any subdivision of land takes place. Final plat approval is required before any street dedication may be accepted for ownership and maintenance, before any construction permit may be issued, and before any water, sewer or other facility or service may be extended to or connected with any subdivision for which a plat is required.
- 3) Acceptance of Dedication: The approval of a plat does not constitute an acceptance of any dedication of public streets, grounds or facilities shown on the plat until such time as the Town Board of Commissioners may accept such dedication by resolution. The Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.
- 4) Penalties for Violation
 - (a) Criminal Penalties: Any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of Oriental, thereafter subdivides his land in violation of this ordinance, or transfers or sells land by reference to, exhibition of, or any use of a plat showing a subdivision of the land, before the plat has been properly approved

under the terms of this ordinance and recorded in the Pamlico County Register of Deeds, shall be guilty of a misdemeanor. The description of metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty.

(b) Civil Penalties: The violation of any provision of this ordinance shall also subject the offender to a civil penalty in the amount of \$50 to be recovered by the Town of Oriental. Violators shall be issued a written citation that must be paid within (10) days. Each day's continuing violation of this ordinance shall be a separate and distinct offense.

(c) All Remedies Available: Nothing in this Article shall be construed to limit the use of remedies available to the Town. The Town may seek to enforce this ordinance by pursuing any one, all, or a combination of remedies authorized by N.C.G.S. 160A-175.

5) Separability: Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

6) Variance: Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this ordinance would cause an unnecessary hardship, the Board of Commissioners may authorize a variance to the terms of this ordinance but only to the extent that is absolutely necessary and not to an extent which would violate the intent of this ordinance.

7) Exception for Group Development: The standards and requirements of this ordinance may be modified by the Board of Commissioners upon recommendation of the Planning Board in the case of a plan and program for a group, cluster or planned unit development, which, in the judgment of the Board of Commissioners, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, which also provides such covenants or other legal provisions as will assure conformity to and achievement of the purpose and intent of this ordinance, and which is in compliance with the Growth Management Ordinance of the Town of Oriental.

8) Amendments: This ordinance may be amended from time to time by the Town of Oriental Board of Commissioners after giving public notice of and holding a public hearing with respect to such amendment, and public notice of the public hearing must be given at least once a week for two (2) consecutive calendar weeks in a newspaper of general circulation in the Town and said notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before action on the amendment is to be taken; however, no amendment shall become effective unless it shall have been

proposed by the Oriental Planning Board or shall have been submitted to said Board for review and recommendation.

- 9) Abrogation: It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law except as set forth in Section 105 heretofore. Should the requirements of these regulations conflict with those of the Growth Management Ordinance or other ordinance; the more stringent requirements shall prevail.
- 10) Subdivision Administrator: The holder of the Office of Town Clerk is hereby appointed Subdivision Administrator unless otherwise designated by the Town Board of Commissioners.
- 11) Subdivision Defined: A "subdivision" shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions, for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets. The following are not included within this definition and are not subject to any regulations enacted pursuant to this ordinance:
 - (a) The combination or recombination of portions of previously platted lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as required by ordinance;
 - (b) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
 - (c) The public acquisition by purchase of strips of land for widening or opening of streets; and
 - (d) The division of a tract in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town.
- 12) Additional Definitions: For the purpose of this ordinance, certain words or terms used herein shall be defined as follows:
 - (a) Alley: A public thoroughfare, which affords only a secondary means of access to abutting property.
 - (b) Board of Commissioners: Shall mean the duly elected Board of Commissioners of the Town of Oriental, North Carolina.
 - (c) Building Setback Line: A line parallel to the front property line in front of which no structure, or part thereof, shall be erected.
 - (d) Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.
 - (e) Corner Lot: A lot abutting upon two or more streets at their intersection.

- (f) Dedication: A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.
- (g) Double Frontage Lot: A continuous (through) lot of the same depth as the width of the block containing two tiers of lots and which is accessible from both of the streets upon which it fronts.
- (h) Easement: A grant by the property owner for use by the public, a corporation or person(s) of a strip of land for specific reasons.
- (i) Group Development: A development comprised of two or more buildings such as a group of apartments, townhouses, or a condominium where the land is not subdivided into the customary streets and lots.
- (j) Plat: A map or plan of a parcel which is to be, or has been subdivided.
- (k) Subdivider: Any person, firm, or corporation who subdivides or develop any land deemed to be a subdivision as herein defined.
- (l) Thoroughfare Plan: The Thoroughfare Plan adopted by the Town of Oriental and the North Carolina Department of Transportation as the basis for the development of the street and highway system in the Town.

13) Word Interpretation: For the purpose of the ordinance, certain words shall be interpreted as follows:

- (a) The word “may” is permissive.
- (b) The words “shall” and “will” are mandatory.
- (c) The present tense includes the future tense and the future tense includes the present tense.
- (d) The singular includes the plural and the plural includes the singular.

**Section 72
Plat Preparation and Approval Procedure**

No final plat of a subdivision within the jurisdiction of Oriental shall be accepted for recording by the Pamlico County Register of Deeds until final approval has been given by the Town of Oriental Planning Board. To obtain final plat approval the subdivider shall follow the steps enumerated in this Article.

**Section 73
Sketch Design Plan**

- 1) Prior to submitting a preliminary plat, the subdivider is encouraged to prepare and submit to the Subdivision Administrator a sketch design plan of the proposed subdivision. The sketch design plan should contain the following information:
 - (a) The proposed name and location of the subdivision.
 - (b) The total acreage of the proposed subdivision.

- (c) The tentative street and lot arrangement.
 - (d) The name and address of the owner and subdivider.
 - (e) Lot sizes and number of lots.
 - (f) The existing and proposed uses of the land within the subdivision and adjoining it.
 - (g) The zoning classification, if any, of the tract and adjoining properties.
 - (h) Sketch vicinity map, if outside the limits.
- 2) The Subdivision Administrator shall review the sketch design plan and shall advise the subdivider or his agent of the procedures to be followed in the preparation and submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval of the proposed subdivision as required by this ordinance.

Section 74

Preliminary Plat

- 1) Submission Required: The subdivider, or his agent, shall submit five (5) copies of the preliminary plat and any supplementary materials to the Subdivision Administrator at least twenty-five (25) days prior to the Planning Board meeting at which said plat is to be considered. A fee according to a regularly adopted fee schedule of the Town Board of Commissioners will be required to cover the administrative costs of review.
- 2) Content of Plat: The preliminary plat shall be drawn at a scale of one (1) inch to one-hundred (100) feet or larger, on sheets of a size suitable for recording by the Pamlico County Register of Deeds and shall show the following:
- (a) The location of existing and platted property lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts, storm drains, water mains, and any public utility easements, both on the land subdivided and on the land immediately adjoining.
 - (b) The boundary line of the tract to be subdivided drawn accurately with all bearings and distances shown.
 - (c) Wooded areas, marshes, and any peculiar, natural conditions affecting the site.
 - (d) Names of adjoining property owners or subdivisions.
 - (e) Zoning classification, if any, both of the land to be subdivided and on adjoining property.
 - (f) Proposed streets, street names, right-of-way, typical street cross sections, pavement widths, approximate grades.

- (g) The plan for proposed utility layouts (sewer, water, electric) showing connections to existing systems, storm drainage, etc.
 - (h) Other proposed rights-of-way or easements, location, width, or purpose.
 - (i) Proposed lot lines, lot and block numbers and approximate dimensions.
 - (j) Proposed minimum building setback lines.
 - (k) Contours with vertical intervals of two or less feet.
 - (l) Proposed location and size of parks, school sites, or other public open spaces, if any.
 - (m) Title, date, north point, and graphic scale.
 - (n) Name(s) of owner(s), mortgagees, surveyor and land planner.
 - (o) Site data.
 - i) Acreage in total tract
 - ii) Acreage in parks or other land usage
 - iii) Total number of lots
 - iv) Linear feet in streets
 - (p) Sketch vicinity map showing relationship between subdivision and surrounding area.
 - (q) The preliminary plat shall be accompanied by a copy of any proposed deed restrictions or restrictive covenants.
- 3) Review by Interested Agencies: The Subdivision Administrator shall check the plat for compliance with Town ordinances and distribute prints of the proposed subdivision to any governmental agency or agencies having a specific interest in the subdivision for their comments or recommendations, including where applicable but not limited to the Pamlico County Health Department, the N.C. Department of Transportation, the Land Resources Division of the North Carolina Department of Environment and Natural Resources, the Soil Conservation Service, the U.S. Postal Service. The Subdivision Administrator shall consolidate such recommendations and present them to the Planning Board.
- 4) The Planning Board shall review the preliminary plat within sixty (60) days after the Administrator receives the preliminary plat and the comments or authorized signatures on the certificates from the appropriate agencies.

Section 75 Planning Board Approval

The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within forty-five (45) working days of its first consideration of the plat. If the Planning Board does not make a written recommendation within forty-five (45) working days after its first consideration of the plat, the subdivider may apply to the Board of Commissioners for approval or disapproval.

- 1) Review by Board of Commissioners: The Town Board of Commissioners shall review the preliminary plat with the recommendation of the Planning Board and shall approve, conditionally approve, or disapprove the plat within sixty (60) days after submission.
 - (a) Approval. If the Town Board of Commissioners approves the preliminary plat, such approval shall be noted on two copies of the plat, one to be returned to the subdivider and one to be kept in the permanent record of the Town of Oriental.
 - (b) Conditional Approval. If the Town Board of Commissioners recommends approval of the preliminary plat conditioned on modifications being made to bring the plat into compliance, it shall retain one copy of the originally submitted preliminary plat with its certificate that the plat will be approved when the conditions noted are met and shall return one copy to the subdivider with its written conditions for approval. The subdivider shall have sixty (60) days in which to make the changes needed to bring the plat into compliance. The subdivider shall submit two copies of the corrected plat to the Subdivision Administrator who will review it to ensure that the recommended changes have been made and who will place review of the corrected plat on the agenda for the next Town Board of Commissioners' meeting. If the preliminary plat has been properly amended, the Town Board of Commissioners will certify the plat as approved. If the subdivider fails to resubmit the plat within sixty (60) days or has not submitted a plat with adequate modifications as required by the Town Board of Commissioners within sixty (60) days, then the subdivider must resubmit a proper preliminary plat to the Subdivision Administrator and begin the preliminary plat approval process again, including payment of fees, before approval can be given.

Section 76 Disapproval

If the preliminary plat is disapproved by the Town Board of Commissioners, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the subdivider has not complied in the preparation of the plat. One (1) copy of such reasons and one (1) copy of the plat shall be

retained in the permanent records of the Town Board of Commissioners. One (1) copy of the reasons and one (1) copy of the plat shall be returned to the subdivider. A subdivision plat resubmitted after being disapproved by the Town Board of Commissioners shall be treated as a newly submitted plat.

Section 77

Final Plat

- 1) **Submission Required Within 12 Months:** Within twelve (12) months after approval of the preliminary plat, the subdivider or his agent shall submit to the Subdivision Administrator five (5) copies of the final plat, unless an extension of time for submission of the final plat is requested and allowed by the Planning Board. If no final plat is submitted or extension allowed within twelve (12) months of the approval of the preliminary plat, the preliminary plat shall become null and void. For purposes of calculating the time allowed for submission of the final plat where the preliminary plat was conditionally approved and the conditions were met, approval is deemed to have taken place on the date of the conditional approval of the Town Board of Commissioners.
- 2) **Improvements Installation**
 - (a) **Completion of Improvements Prior to Final Approval:** Prior to final plat submission or approval, the subdivider shall complete and dedicate in a manner satisfactory to the Planning Board all required improvements as specified either on the approved preliminary plat or, in the case of a phased subdivision, on that portion of the approved preliminary plat which the subdivider proposes to record.
 - (b) **Completion of Improvements Under Guarantee:** As an alternative, the subdivider may obtain a letter of credit or performance bond(s) from a surety bonding company authorized to do business in North Carolina. The letter of credit or bonds shall be payable to the Town of Oriental and shall be in an amount equal to 1.25 times the entire cost, as shown on the estimate required herein. The bond shall be approved by the Oriental Planning Board and the Town Attorney. The letter of credit or bond shall be conditioned so that the required improvements may be constructed by the Town without cost to the Town in the event of default by the subdivider. The duration of the guarantee shall be until such time as the improvements are accepted by the Oriental Planning Board following receipt by said Board of appropriate written releases from the agencies herein above specified but in no case for longer than twenty-four (24) months from the date of final approval.
- 3) **Bond Guaranteeing Improvements Required:** In addition, the Town shall require a bond guaranteeing utility taps, curbs, gutters, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for

one year from the date of final plat approval. This bond shall be in an amount determined by the Planning Board and shall be in cash or be made by a Surety Company authorized to do business in North Carolina.

- 4) Content of Plat: The final plat shall be prepared by a registered surveyor licensed to practice in North Carolina. The final plat shall be drawn at a scale of one (1) inch to one hundred (100) feet or larger, on sheets of a size suitable for recording by the Pamlico County Register of Deeds, and shall conform to the preliminary plat as it was approved. One (1) copy of the final plat shall be an original drawn in ink on linen or film suitable for reproduction. Four (4) copies shall be black or blue line prints. The final plat shall show the following information:
- (a) The exact boundary lines for the tract to be subdivided fully dimensioned by length and bearings, and the location of intersecting boundary lines of adjoining lands, with adjacent subdivisions identified by official names.
 - (b) The accurate locations and descriptions of all monuments, markers, and control points.
 - (c) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-hundredth (1/100) of a foot and all angles to the nearest thirty (30) seconds.
 - (d) The location of all rights-of-way, easements, and areas to be dedicated to public use with the purpose of each stated.
 - (e) The location, purpose, and dimensions of areas to be used for purposes other than residential and public.
 - (f) The blocks numbered consecutively throughout the entire subdivision and the lot numbers consecutive throughout each block.
 - (g) Right-of-way lines, widths and names of all streets and location and widths of all adjacent streets and easements.
 - (h) The name of the subdivision and the names and addresses of the owner and the surveyor.
 - (i) The date of the survey and plat preparation, a north arrow indicating whether true north or magnetic and graphic scale.

- (j) The deed restrictions proposed for the subdivision should accompany the final plat if any.
 - (k) A statement explaining the status of the streets and a copy of any maintenance agreement regarding streets shall be submitted with the final plat.
 - (l) Any other information considered by either the subdivider or the Planning Board to be pertinent to the review of the final plat.
 - (m) Signed certificates as indicated in Appendix A shall appear on each of the five (5) copies of the final plat that are submitted to the Planning Board by the subdivider.
 - (n) Areas of flood hazard as indicated by the current Flood Insurance Rate maps.
- 1) Planning Board Review: The final plat shall be reviewed by the Planning Board for conformance to the approved preliminary plat within twenty-five (25) days of its submission or at its next regular meeting, whichever is later. The Planning Board may appoint an engineer to check the final plat against the subdivision's actual layout for correctness, charging the costs to the subdivider if the plat is found to be in error.
 - 2) Approval of Plat: If the final plat is in compliance with the ordinance or the Planning Board approves the changes made from the approved preliminary plat, the Planning Board shall approve the final plat. Such approval shall be indicated on each copy of the plat by the following signed certificate.

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Oriental, North Carolina, and that this plat has been approved by the Planning Board of the Town of Oriental for recording in the office of the Register of Deeds of Pamlico County.

Date

_____ Chairman, Oriental Planning Board

- 1) Disapproval of Plat: If the Planning Board disapproves the final plat, the reasons shall be stated in writing, specifying the provisions of this ordinance with which this plat does not comply. One (1) copy of this statement shall be transmitted to the subdivider within fifteen (15) days of disapproval. One (1) copy of the statement and one (1) copy of the final plat shall be retained by the Planning Board as part of its permanent record.

- 2) Final Plat Recordation: The subdivider shall file the approved final plat with the Pamlico County Register of Deeds within sixty (60) days after the date of Planning Board approval; otherwise, such approval shall be null and void. One (1) copy of the approved final plat marked filed by the Pamlico County Register of Deeds shall be returned to the Town Clerk to be kept in the Town's permanent files.

Section 78 Resubdivision Procedures

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

Section 79 Vacation of Plat

- 1) Written Instrument Required: Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- 2) Board of Commissioners Approval: Such an instrument shall be approved by the Town Board of Commissioners upon recommendation of the Planning Board. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.
- 3) Form and Effect: Such an instrument shall be executed, acknowledged, or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- 4) Owners of Lots Must Join: When lots have been sold, the plat may be vacated in the manner provided in this Section only when all owners of the lots in the subdivision as shown on said plat join in the execution of the instrument described in this Section.

Section 80 Design Standards

Each subdivision shall contain the improvements specified in this Article, which shall be installed in accordance with the requirements of this ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this

ordinance. Land shall be dedicated and reserved in each subdivision as specified in this Article. Each subdivision shall adhere to the minimum standards of design established by this Article.

Section 81 Suitability of Land

- 1) Unsuitable Land: Land which has been determined by the Board of Commissioners on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- 2) Solid Waste Sites: Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the N.C. Department of Environment, Health and Natural Resources, Division of Health Services, Solid and Hazardous Waste Section, County Health Department, a structural engineer, a soils expert and any other appropriate authority determine that the land is suitable for the purpose proposed. It shall be the responsibility of the developer to certify that areas which have been used for solid waste that are intended to be subdivided conform to requirements of appropriate agencies.

Section 82 Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Pamlico County.

Section 83 Subdivision Design

- 1) Blocks
 - (a) The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the use contemplated; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.
 - (b) Blocks shall not be less than 400 feet or more than 1800 feet in length.
 - (c) Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single tier lots are required to separate residential

development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

- (d) Where deemed necessary by the Board of Commissioners, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.
- (e) Block numbers shall conform to the Town street numbering system, if applicable.

2) Lot Requirements

- (a) Lot size pursuant to requirements of the zoning.
- (b) Lots shall meet any applicable Pamlico County Health Department requirements.
- (c) Double frontage lots shall be avoided wherever possible.
- (d) Side lot lines shall be substantially at right angles to or radial to street lines.

3) Easements shall be provided as follows:

- (a) **Utility Easement:** Easements for underground utilities shall be provided, where necessary, adjacent to street rights-of-way and shall be at least ten (10) feet wide for water, sanitary sewer and electric lines, and as required by the companies involved for other utilities. The Board of Commissioners will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements. These requirements may be modified with approval in a Group Development.
- (b) **Drainage Easements:** Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

Section 84 Streets

- 1) **Requirements:** All subdivision lots shall abut on a street dedicated to the public. All streets shown on the final plat shall be dedicated to the public. All streets shall be built to the standards contained in this ordinance, which include those minimum construction standards established by the N.C. Department of Transportation for subdivision roads which are in effect at the

time of construction. Where the offer of dedication of a street is not to be accepted by the Town of Oriental or the State at substantially the same time as final plat approval, a written agreement with provisions acceptable to the Town Board of Commissioners for maintenance of the street shall be included with the preliminary plat.

- 2) Subdivision Street Disclosure Statement: All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the State system, a statement explaining the status of the streets and maintenance responsibility shall be included with the final plat.
- 3) Access to Adjacent Properties: Where, in the opinion of the Board of Commissioners, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided. The extension shall have the same right-of-way width as the street being extended.
- 4) Nonresidential Streets: The subdivider of a nonresidential subdivision shall provide streets in accordance with the North Carolina Roads, Minimum Construction Standards, as amended, or the standards in this ordinance, whichever are stricter in regard to each particular item.
- 5) Design Standards: The design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways. The N.C. Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction Standards, as amended, shall apply for any items not included in this ordinance, or where stricter than this ordinance. The provision of street rights-of-way shall conform to and meet the requirements of the thoroughfare plan of Oriental as approved by the Planning Board and adopted by the Board of Commissioners and the North Carolina Board of Transportation.
 - (a) Right-of-way Widths: Right-of-way widths shall not be less than forty-five (45) feet. The subdivider will only be required to dedicate a maximum of one hundred_(100) feet of right-of-way. In cases where over 100 feet of right-of-way is desired, the subdivider will be required only to reserve the amount in excess of one hundred_(100) feet.
 - (b) Cul-de-sacs: Permanent dead-end streets shall not exceed 1200 feet in total length. Longer cul-de-sac lengths may be authorized provided the Planning Board determines there is no practical option for providing street connectivity due to existing documented environmental features such as wetlands, natural water bodies, topographical features, environmental conditions or physical conditions such as property shape, property accessibility, or land use relationships. All such cul-de-sac extensions

shall have a turnaround or cul-de-sac connection no less than every 800 feet.

6) Other Requirements

- (a) Through Traffic Discouraged on Residential Collector and Local Street: Local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.
- (b) Sidewalks: Sidewalks may be required by the Board of Commissioners on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four (4) feet, and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossing.
- (c) Street Names: Proposed streets that are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Board of Commissioners.
- (d) Street Name Signs: The subdivider shall be required to provide and erect street name signs to Town standards at all intersections within the subdivision.
- (e) Permits for Connection to State Roads: An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.
- (f) Wheelchair Ramps: In accordance with N.C. General Statutes 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

Section 85 Utilities

- 2) Water and Sanitary Sewer Systems: Each lot or dwelling unit in all subdivisions within the corporate limits of the Town of Oriental shall be provided, at the subdivider's expense, with an extension of the municipal water system and the sanitary sewer system.
- 3) Storm Water Drainage System: Storm water drainage requirements are as follows:
 - (a) The subdivider shall comply with the North Carolina Department of Transportation regulations regarding surface water drainage systems for roads where applicable.
 - (b) No surface water shall be channeled or directed into a sanitary sewer.
 - (c) Where feasible, the subdivider shall connect to an existing storm drainage system.
 - (d) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a drainage system shall be submitted by the subdivider for review and approval with the preliminary plat. The drainage plan shall be prepared by the USDA Soil Conservation Service, or it shall be certified by a professional engineer.
 - (e) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.
 - (f) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. 143-34.12, Chapter 113A, Article 4 and the North Carolina Administrative Code Title 15, Chapter 4.
 - (g) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.
 - (h) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - (i) When new subdivisions are determined by the Planning Board to displace more surface water runoff than the existing receiving drainage system can accommodate, it shall be the subdivider's responsibility to make such offsite improvements to the receiving drainage systems that will

accommodate the increased runoff within limits approved by the Board of Commissioners.

- 3) **Underground Wiring:** All subdivisions shall have underground wiring. Such underground wiring shall be installed in accordance with the electric policies of the Town of Oriental. The subdivider shall be required to pay the charges for installation of the underground service as provided in the electric policies.

Section 86 Other Requirements

- 1) **Surveys:** Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.
- 2) **Construction Procedures:** No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all the requirements of this ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this ordinance to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.
- 3) **Oversized Improvements:** The Town of Oriental may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Town requires the installation of improvements in excess of the standards required in this ordinance, including all standards adopted by reference, the Town shall pay the cost differential between the improvement required and the standards in this ordinance.

APPENDIX A: FINAL PLAT CERTIFICATIONS

The Subdivision Administrator will indicate the appropriate certifications for a particular subdivision.

1. Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks and other sites and easements to public or private use as noted. Furthermore, I dedicate all water lines to the Town of Oriental and certify the land as shown hereon is within the platting jurisdiction of the Town of Oriental, North Carolina.

Date

Owner(s)

The Certificate of Ownership and Dedication shall be notarized.

1) Certificate of Approval of Water Supply System

I hereby certify that the water supply system is installed, or proposed for installment in _____ Subdivision fully meets the requirements of the North Carolina Department of Environment and Natural Resources.

Date

County Health Officer or his Authorized Representative

2) Certificate of Survey and Accuracy

North Carolina General Statutes 47-30 provides that there shall appear on each plat a certificate by the person under whose supervision such survey or plat was made, stating the origin of the information shown on the plat, including a recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgements by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one (1) sheet, all sheets shall be numbered as one of a total number of sheets and match lines shall be used to signify

adjoining sheets. Only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

"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 ratio of precision as calculated by latitudes and departures is 1/____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this ____ day of _____, 20____.

Surveyor

Seal or Stamp

Registration Number

3) The certificate of the Notary shall read as follows:

County Pamlico
North Carolina

I, _____, a Notary Public of the County and State aforesaid, certify that _____ a registered land surveyor, personally known to me or identified by satisfactory evidence, personally appeared before me this day and acknowledged the voluntary execution of the foregoing instrument for the purpose therein expressed. Witness my hand and official stamp or seal, this ____ day of _____, 20____.

Seal/Stamp

Notary Public

4) Certificate of Approval of the Design and Installation of Streets, Utilities and Other Required Improvements

I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to town specifications in

_____ Subdivision or that a satisfactory guarantee of such installation has been received.

Date

Subdivision Administrator

5) I hereby certify that the subdivision shown on this plat does not involve the creation of new streets or any change in existing streets and that all lots shown hereon can be served by existing water and sewer lines.

Date

Subdivision Administrator

6) Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Oriental, North Carolina, and that this plat has been approved by the Planning Board of the Town of Oriental for recording in the office of the Register of Deeds of Pamlico County.

Date

Chairman, Oriental Planning Board

7) Certificate of Registration by Register of Deeds

North Carolina
Pamlico County

The foregoing certificate of _____, a Notary Public of _____ County, North Carolina is certified to be correct.

Filed for registration on the ____ day of _____, 20____, at ____ (A.M/P.M.) and duly recorded in the Map Book ____, on Page ____.

Register of Deeds

8) Certificate of Compliance with Area of Environmental Concern

I hereby certify that this subdivision conforms to the standards of the North Carolina Coastal Management Act of 1974 and a portion(s) or all of the subdivision located within any Area of Environmental Concern is duly noted at the appropriate location on this plat.

Local Permit Officer

APPLICATION FOR SUBDIVISION APPROVAL

DEVELOPMENT NAME: _____

LOCATION: _____

OWNER/DEVELOPER: _____

ADDRESS: _____

PHONE: _____

PREPARER OR PLAT: _____

ADDRESS: _____ PHONE: _____

FEE REQUIRED: _____

In the filing of this petition either by myself as the property owner(s) or by my duly authorized agents, I/we do hereby agree and firmly bind myself/ourselves, my/our heirs, executors, administrators, successors and assigns jointly and severally to construct all improvements and make all dedications as shown on the approved plan.

Date _____

Signed _____

This application form is intended to be a checklist for guidance and should not be construed to contain specific requirements that are set out more fully in the text of the Ordinance.

1) Requirements for Sketch Plan (Article II, Section 2)

The developer is encouraged to submit a sketch plan which is not required to be prepared by a surveyor or engineer in order to become familiar with the subdivision procedures and requirements of the Town before incurring professional fees. A copy of the Pamlico County tax maps covering the area to be subdivided may be used for a scaled drawing of the proposal at this stage.

(a) The proposed name and location of the subdivision.

(b) The total acreage of the proposed subdivision.

- (c) The tentative street and lot arrangement.
- (d) The name and address of the owner and subdivider.
- (e) Lot sizes and number of lots.
- (f) The existing and proposed uses of the land within the subdivision and adjoining it.
- (g) The zoning classification, if any, of the tract and adjoining properties.
- (h) Sketch vicinity map, if outside the town limits.

Reviewed by _____

Date: _____

Comments:

2) Requirements for Preliminary Plat

Five copies of the plat are required drawn at a scale of 1":100' or larger.

- (a) The location of existing and platted property lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts, storm drains, water mains, and any public utility easements, both on the land subdivided and on the land immediately adjoining.
- (b) The boundary line of the tract to be subdivided drawn accurately with all bearings and distances shown.
- (c) Wooded areas, marshes, and any peculiar, natural conditions affecting the site.
- (d) Names of adjoining property owners or subdivisions.
- (e) Zoning classification, if any, both of the land to be subdivided and on adjoining land.
- (f) Proposed streets, street names, rights-of-way, typical street cross sections, pavement widths, and approximate grades.

- (g) The plans for proposed utility layout (sewer, water, electric) showing connections to existing systems, storm drainage, etc.
- (h) Other proposed rights-of-way or easements, locations, width, or purpose.
- (i) Proposed lot lines, lot and block numbers and approximate dimensions. E-911 addresses should be applied as lot numbers.
- (j) Proposed minimum building setback lines.
- (k) Contours with vertical intervals of two or less feet.
- (l) Proposed location and size of parks, school sites, or other public open spaces, if any.
- (m) Title, date, north point, and graphic scale.
- (n) Name(s) of owner(s), mortgagees, surveyor and land planner.
- (o) Site data.
 - 1. Acreage in total tract
 - 2. Acreage in parks or other land use
 - 3. Total number of lots
 - 4. Linear feet in streets
- (p) Sketch vicinity map showing relationship between subdivision and surrounding area.
- (q) The preliminary plat shall be accompanied by a copy of any proposed deed restrictions or restrictive covenants. The Subdivision Administrator will notify the applicant of the meeting date of the Planning Board for review upon receipt of applicable comments and certifications of appropriate agencies (Section 203.4). The Planning Board will make a recommendation to the Town Board of Commissioners within 45 working days of its first consideration of the plat. The applicant may request consideration directly by the Commissioners after that time (Section 203.4). Approval of the preliminary plat by the Board of Commissioners is authorization for the developer to begin construction and installation of required improvements according to the approved engineering plans. If the subdivision is of land which is already served by existing streets, public water and sewer lines, preliminary and final approval may be given in one step upon recommendation by the Planning Board and approval by Commissioners.

Preliminary plat approval requires that a final plat be submitted within 12 months showing improvements as installed or accompanied by a guarantee of improvements to be installed within twenty-four (24) months of final plat approval (Sections 204.1, 204.2, 307.2, 307.3)

3) Requirements for Final Plat

- (a) The exact boundary lines for the tract to be subdivided fully dimensioned by length and bearings, and the location of intersecting boundary lines of adjoining lands, with adjacent subdivisions identified by official names.
- (b) The accurate locations and descriptions of all monuments, markers, and control points.
- (c) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-hundredth (1/100) of a foot and all angles to the nearest thirty (30) seconds.
- (d) The location of all rights-of-way, easements, and areas to be dedicated to public use with the purpose of each stated.
- (e) The location, purpose, and dimensions of areas to be used for purposes other than residential and public.
- (f) The blocks numbered consistently throughout the entire subdivision and the lots numbered consecutively throughout each block.
- (g) Right-of-way lines, widths and names of all streets and location and widths of all adjacent streets and easements.
- (h) The name of the subdivision and the names and addresses of the owner and the surveyor.
- (i) The date of the survey and plat preparation, a north arrow indicating whether true north or magnetic and graphic scale.
- (j) The deed restrictions proposed for the subdivision should accompany the final plat if any.
- (k) A statement explaining the status of the streets and a copy of any maintenance agreement regarding streets shall be submitted with the final plat.

- (l) Any other information considered by either the subdivider or the Planning Board to be pertinent to the review of the final plat.
 - (m) Signed certificates as indicated in Appendix A shall appear on each of the five (5) copies of the final plat that are submitted to the Planning Board by the Subdivider.
 - (n) Areas of flood hazard as indicated by the current Flood Insurance Rate Maps.
- 1) Minimum design standards are set out in Article III of the Subdivision Regulations. Questions concerning the procedure or applicable parts of the Ordinance should be addressed to the Subdivision Administrator.

**Sections 87 through 90
Reserved**

**ARTICLE IV
APPEALS, VARIANCES, INTERPRETATIONS**

**Section 91
Appeals**

- 1) An appeal from any final order or decision of the administrator or his designee may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed with the administrator and the Board of Adjustment when delivered to the town hall, and the date and time of filing shall be entered on the notice by the administrator.
- 2) An appeal must be taken within thirty days after the date of the decision or order appealed from.
- 3) Whenever an appeal is filed, the administrator shall transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from.
- 4) An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision appealed from, unless the administrator certifies to the Board of Adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrator.
- 5) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

**Section 92
Variances**

- 1) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the administrator. Applications shall be handled in the same manner as applications for special use permits.
- 2) A variance may be granted by the Board of Adjustment if it concludes:

- (a) There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of the Ordinance. The Board may reach this conclusion if it finds that:
 - i. If the applicant complies with the provisions of this ordinance, he can make no reasonable return, or make no reasonable use of his property;
 - ii. The hardship results from the application of the ordinance to his property;
 - iii. The hardship of which the applicant complains results from unique circumstances related to the applicant's property;
 - iv. The hardship is not the result of the applicant's own actions;
 - v. The hardship is peculiar to the applicant's property.
 - (b) The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.
 - (c) The granting of the variance assures the public safety and welfare and does substantial justice.
- 3) In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
 - 4) A variance may be issued for an indefinite duration or for a specified duration.
 - 5) The nature of the variance and any conditions attached to it shall be entered on the face of the land use permit, or the land use permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this chapter.
 - 6) Variances shall expire automatically if, within one year after the issuance of a building permit, the use authorized by the variance has not commenced.

Section 93 Interpretations

- 1) The Board of Adjustment is authorized to interpret the growth management map and to pass upon disputed questions of district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the administrator, they shall be handled as provided in Section 91.

- 2) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the office of the administrator in the town hall. The application shall contain sufficient information to enable the board to make the necessary interpretation.
- 3) Where uncertainty exists as to the boundaries of districts as shown on the Official Growth Management Map, the following rules shall apply:
 - (a) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
 - (b) Boundaries indicated as approximately following lot lines of town limits shall be construed as following such lines or limits;
 - (c) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines;
 - (d) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Growth Management Map, the boundary shall be determined by measurement, using the scale of the Official Growth Management Map;
 - (e) Where any street or alley is officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added by virtue of such vacation or abandonment.

Section 94

Requests to be Heard Expeditiously

As provided in Section 69, the Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Article V, and obtain the necessary information to make sound decisions.

Section 95

Burden of Proof in Appeals and Variances

- 1) When an appeal is taken to the Board of Adjustment in accordance with Section 91, the administrator shall have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the

contrary then shifts to the appellant, who shall also have the burden of persuasion.

- 2) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 92(2), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 96 Board Action on Appeals and Variances

- 1) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption (see Section 32), then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board's decision if supported by more than one fifth of the board's membership (excluding vacant seats).
- 2) In granting a variance, the board must vote affirmatively (by a 4/5 majority – See Section 32) on each of the three required findings stated in Section 92(2). Insofar as practicable, a separate motion to make an affirmative finding on each of the requirements set forth in Section 92 (2) (a) shall include a statement of the specific reasons or findings of fact supporting each motion.
- 3) A motion to deny a variance may be made on the basis that any one or more of the three criteria set forth in Section 92 (2) are not satisfied or that the application is incomplete. Such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board's decision if supported by more than one fifth (1/5) of the Board's membership (excluding vacant seats).

Sections 97 through 100 Reserved

ARTICLE V
HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Section 101
Hearing Required on Appeals and Applications

- 1) Before making a decision on an appeal or an application for a variance, special use permit, or a petition from the administrator to revoke a special use permit, the Town Commissioners or the Board of Adjustment, as the case may be, shall hold a hearing on the appeal or application.
- 2) The hearing shall be open to the public and all persons shall be given an opportunity to present evidence, oral or written, offer sworn testimony, and direct questions to the board regarding other evidence or testimony.
- 3) The Town Commissioners or the Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- 4) The board hearing an appeal or application may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

Section 102
Notice of Hearing

The administrator shall give notice of any hearing required by Section 101 as follows:

- 1) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not less than ten days before the hearing.
- 2) Notice shall be given to neighboring property owners by mailing a written notice not less than ten days before the hearing to those persons who have listed for taxation any portion of real property that abuts the lot that is the subject of the application or appeal.
- 3) Notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area once a week for two consecutive weeks. The notice shall be published for the first time not more than 25 days and not less than 10 days before the date fixed for the hearing.

- 4) The notice required by this section shall state the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 103 Evidence

- 1) The provisions of this section apply to all hearings for which a notice is required by Section 101.
- 2) All persons who present evidence or speak to the permit-issuing authority shall be sworn.
- 3) All finds and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon sworn testimony and admitted evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question is determined to be reliable, and the matter at issue is not seriously disputed.

Section 104 Modification of Application at Hearing

- 1) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Town Commissioners or the Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- 2) Unless such modifications are so substantial or extensive that the permit-issuing authority cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans review, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to and accepted by the administrator.

Section 105 Record

- 1) A record shall be made of all hearings required by Section 101, and such recordings shall be kept as provided by state law, but a transcript need not be made. Minutes shall also be kept of all such proceedings, but a transcript need not be made.

- 2) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings.

Section 106

Written Decision

- 1) Any decision made by the Town Commissioners or the Board of Adjustment regarding an appeal or variance or issuance or revocation of a special use permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
- 2) In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts, whenever this chapter requires the same as a prerequisite to taking action.

Sections 107 through 110

Reserved

ARTICLE VI ENFORCEMENT AND REVIEW

Section 111 Complaints Regarding Violations

Whenever the administrator receives a written, signed complaint alleging a violation of this chapter, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

Section 112 Persons Liable

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

Section 113 Procedures Upon Discovery of Violations

- 1) If the administrator finds that any provision of this chapter is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's discretion.
- 2) The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 91.
- 3) In cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 114.

Section 114 Penalties and Remedies for Violations

- 1) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards

established in connection with grants of variances or special use permits, shall constitute a misdemeanor, punishable by a fine of up to fifty dollars, or a maximum thirty days imprisonment.

- 2) Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use permits, shall also subject the offender to a civil penalty of fifty dollars. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Section 113 and did not take an appeal to the Board of Adjustment within the prescribed time.
- 3) This chapter may also be enforced by any appropriate equitable action.
- 4) Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
- 5) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

Section 115 Permit Revocation

- 1) A land use or special use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the permit-issuing authority.
- 2) Before a special use permit may be revoked, all of the notice and hearing and other requirements of Article V shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
 - (a) The burden of presenting evidence sufficient to authorize the Town Commissioners to conclude that a permit should be revoked for any of the reasons set forth in subsection (1) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
 - (b) A motion to revoke a permit shall include a statement of the specific reasons or findings of fact that support the motion.
- 3) Before a land use permit may be revoked, the administrator shall give the permit recipient ten days notice of intent to revoke the permit and shall inform

the recipient of the alleged reasons for the revocation and of his right to obtain a hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons for the revocation.

- 4) No person may continue to make use of land or buildings in the manner authorized by any land use or special use permit after such permit has been revoked in accordance with this section.

Section 116 Judicial Review

- 1) Every decision of the Town Commissioners granting or denying a special use permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Pamlico County by proceedings in the nature of certiorari.
- 2) The petition for the writ of certiorari must be filed with the Pamlico County Clerk of Court within 30 days after the later of the following occurrences:
 - (a) A written copy of the board's decision (see Section 106) has been filed in the office of the administrator; and
 - (b) A written copy of the board's decision (see Section 106) has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
- 3) A copy of the writ of certiorari shall be served upon the Town of Oriental.

Sections 117 through 120 Reserved

ARTICLE VII NONCONFORMING SITUATIONS

Section 121 Definitions

The words and phrases defined in this section shall have the meaning indicated when used in this article.

- 1) *Dimensional nonconformity.* A nonconforming situation occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
- 2) *Effective date of this chapter.* Whenever this article refers to the effective date of this chapter, the reference shall be deemed to include the effective date of any amendments to this chapter if the amendment, rather than this chapter as originally adopted, creates a nonconforming situation.
- 3) *Expenditure.* A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.
- 4) *Nonconforming lot.* A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area, building setback, or dimensional requirements of the district in which the lot is located.
- 5) *Nonconforming project.* Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- 6) *Nonconforming use.* A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)
- 7) *Nonconforming situation.* A situation that occurs when, on the effective date of this chapter, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a

nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this chapter, or because land or buildings are used for purposes made unlawful by this chapter.

Section 122

Continuation of Nonconforming Situations and Completion of Nonconforming Projects

- 1) Subject to the restrictions and qualifications set forth in Section 123 through 128 and Section 147, nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued.
- 2) Nonconforming projects may be completed only in accordance with the provisions of Section 128.

Section 123

Nonconforming Lots

- 1) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot does not meet the required minimums in Sections 181 or 183, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular growth management district is permissible on a nonconforming lot.
- 2) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (Section 184) cannot reasonably be complied with, then the Board of Adjustment, subject to the provisions of Section 92 and Section 101, may issue a variance from the applicable setback requirements if it finds that:
 - (a) The property cannot reasonably be developed for the use proposed without such deviations;
 - (b) These deviations are necessitated by the size or shape of the nonconforming lot;
 - (c) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety; and

- (d) The property can meet the average distance of the building setbacks of developed properties on the same and opposite sides of the street to which the subject property abuts.
- 3) Compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.
- 4) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 126.
- 5) If on the date this section becomes effective an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five hundred (500) feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified in this chapter, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

Section 124

Extension or Enlargement of Nonconforming Situations

- 1) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
 - (a) An increase in the total amount of space devoted to a nonconforming use;
or
 - (b) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements; or
 - (c) The increase in the height of a structure without a special use permit when due to a natural disaster.

- 1) Subject to subsection (4), a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was manifestly designed or arranged to accommodate such use. However, subject to Section 128 (completion of nonconforming projects), a nonconforming use may not be extended to additional buildings or to land outside the original building.
- 2) Subject to Section 128 (completion of nonconforming projects), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed on the effective date of this chapter.
- 3) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming 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.
- 4) Any structure used for single-family residential purposes (including manufactured homes) and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 127 (abandonment and discontinuance of nonconforming situations).
- 5) Whenever: (i) there exists a lot with one or more structures on it; and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot; and (iii) the parking or loading requirements of Article XII that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 200 if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such satellite parking is reasonably available.

Section 125 Repair, Maintenance and Reconstruction

- 1) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than fifty percent of the appraised valuation of the structure to be renovated may be done only in accordance with a special use permit issued pursuant to this section.
- 2) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed fifty percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a special use permit issued pursuant to this section. This subsection does not apply to structures used for single-family residential purposes (including manufactured homes), which structures may be reconstructed pursuant to a land use permit just as they may be enlarged or replaced as provided in Subsection 124 (5).
- 3) For purposes of subsections (1) and (2):
 - (a) The “cost” of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
 - (b) The “cost” of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsections (1) or (2) by doing such work incrementally.
 - (c) The “appraised valuation” shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser, whichever is greater.
- 4) The Town Commissioners shall issue a special use permit authorized by this section if they find that, in completing the renovation, repair or replacement work:
 - (a) there is no increase in the total amount of lot area devoted to the nonconforming use;
 - (b) there is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscaping requirements; and

- (c) there is no significant adverse impact on surrounding properties or the public health or safety.

In issuing a special use permit, the Town Commissioners may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas.

Section 126

Change In Use of Property Where a Nonconforming Situation Exists

- 1) A change in use of property that is sufficiently substantial to require a new land use or special use permit in accordance with Section 50 may not be made except in accordance with subsections (2) and (3).
- 2) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this chapter applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this chapter is achieved, the property may not revert to its nonconforming status.
- 3) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this chapter applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this chapter to issue a permit for that particular use (the administrator or Town Commissioners) issues a permit authorizing the change. This permit may be issued if the permit-issuing authority finds, in addition to any other findings that may be required by this chapter, that:
 - (a) The intended change will not result in a violation of Section 124; and
 - (b) All of the applicable requirements of this section that can reasonably be complied with will be complied with. Compliance with a requirement of this section is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would be created.

Section 127

Abandonment and Discontinuance of Nonconforming Situations

- 1) When a nonconforming use is discontinued for a consecutive period of 180 days, the property involved may thereafter be used only for conforming purposes.
- 2) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (i) discontinued for a consecutive period of 180 days, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.
- 3) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.
- 4) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180-day period for purposes of this section begins to run on the effective date of this chapter.

Section 128 Completion of Nonconforming Projects

As provided in NCGS §160-385(b), neither this ordinance or any amendment to it shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to NCGS §160A-417 prior to the enactment of the ordinance making the change so long as the building permit remains valid, unexpired, and unrevoked.

Sections 129 through 134 Reserved

**ARTICLE VIII
DEVELOPMENT DISTRICTS AND THE GROWTH MANAGEMENT MAP**

PART 1. DEVELOPMENT DISTRICTS

**Section 135
Residential Districts Established**

- 1) The following residential districts are hereby established: R-1, R-2 and R-3. Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of these districts are explained in the remainder of this section.
- 2) The R-1, Residential District is established as a district in which the principal use of land is for low-density residential purposes. Lots within this district will generally have access to public water and, to a lesser extent, public sewer systems.
- 3) The R-2, Residential District is established to allow a low to medium density of residential land use in areas which will normally be served by both public water and sewer systems. Residences shall be limited to two units per lot.
- 1) The R-3, Residential District is established to allow a medium density of residential land use in areas, which will normally be served, by both public water and sewer systems.

**Section 136
Mixed Use District Established**

The MU and the MU-1 Districts (Mixed Use) are established as districts in which the principal use of land is for a broad range of uses, such as residences, services, offices, and the accommodation of small retail stores which provide goods and services primarily to surrounding residential neighborhoods.

**Sections 137-139
Reserved**

PART II. GROWTH MANAGEMENT MAP

**Section 140
Official Growth Management Map**

- 1) There shall be a map known and designated as the Official Growth Management Map, which shall show the boundaries of all development districts within the Town's planning jurisdiction. This map shall be kept in the office of the administrator.
- 2) The Official Growth Management Map dated September 6, 2005 is adopted and incorporated by reference. Amendments to this map shall be made and posted in accordance with Section 141.
- 3) Should the Official Growth Management Map be lost, destroyed, or damaged, the administrator may have a new map drawn. No further Town Commissioners authorization or action is required so long as no district boundaries are changed in this process.

Section 141

Amendments to Official Growth Management Map

- 1) Amendments to the Official Growth Management Map are accomplished using the same procedures that apply to other amendments to this ordinance, as set forth in Article XIII.
- 2) The administrator shall update the Official Growth Management Map as soon as possible after amendments to it are adopted by the Town Commissioners. Upon entering any such amendment on the map, the administrator shall change the date of the map to indicate its latest revision.
- 3) No unauthorized person may alter or modify the Official Growth Management Map.
- 4) The administrator shall keep copies of superseded prints of the Growth Management Map for historical reference.

Sections 142 through 145

Reserved

**ARTICLE IX
PERMISSIBLE USES**

Section 146

Table of Permissible Uses

- 1) Subject to Section 148, when used in connection with a particular use in the Table of Permissible Uses (Section 146), the letter “L” means that the use is permissible in the indicated district with a land use permit issued by the administrator. The letter “S” means a special use permit must be obtained from the Town Commissioners.

- 2) Use of the designation “L” or “S” for combination uses is explained in Section 154.

**SECTION 146
TABLE OF PERMISSIBLE USES**

Use	Description	District				
		R1	R2 ¹	R3	MU	MU-1
1.000 RESIDENTIAL						
1.100	Single-Family Residences					
1.110	Single-family detached one dwelling unit per lot					
1.111	Site built	L	L	L	L	L
1.112	Class A mfg. homes		L	L	L	L
1.113	Class B mfg. homes				L	
1.120	Single-family detached, more than one dwelling unit per lot					
1.121	Site built and class A mfg. homes		L	L	L	L
1.300	Multi-Unit Residences		S	S	S	S
1.310	Apartment(s) accessory to a commercial use				S	S
1.400	Homes Emphasizing Special Services, Treatment or Supervision					
1.410	Domiciliary homes: homes for handicapped, aged, or infirm; child care homes, nursing care; intermediate care homes		S	S	S	S
1.420	Halfway houses		S	S	S	S
1.430	Family care homes ²	L	L	L	L	L
1.440	Homeless Shelters				S	S
1.500	Miscellaneous Rooms For Rent Situations					
1.510	Rooming houses, boarding houses		S	S	L	L
1.520	Bed and breakfast establishment		S	S	L	L
1.530	Tourist homes and other temporary residences renting by the day or week		S	S	L	L
1.540	Hotels, motels, and similar businesses or institutions providing overnight accommodations				L	L
1.550	Fraternities, sororities, dormitories and similar housing		S	S	L	S
1.600	Temporary Residences					
1.610	Temporary emergency, construction and repair residences	L	L	L	L	L
1.620	Temporary dependent care residences	L	L	L	L	L
1.700	Home Occupations	L	L	L	L	L
1.800	Planned Residential Developments		S	S	S	S
2.000 SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT						
2.100	No Storage or Display of Goods Outside Fully Enclosed Building					
2.110	High volume traffic generation					
2.111	Convenience stores				L	S
2.112	Shopping center				S	S
2.113	All other				L	S
2.120	Low-volume traffic generation				L	S
2.130	Wholesale sales				L	S
2.200	Storage and Display of Goods Within and/or Outside					

¹ Limited to two units per lot.

² No family care home shall be located within 2,640 feet of another such facility, measured along the nearest property lines in relation to one another.

Use	Description	District				
		R1	R2	R3	MU	MU-1
	Fully Enclosed Building					
	2.210 High-volume traffic generation				L	S
	2.220 Low-volume traffic generation				L	S
	2.230 Wholesale sales				L	S
	2.240 Manufactured homes sales				L	S
3.000	OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO GOODS OR MERCHANDISE					
	3.100 All Operations Conducted Entirely Within Fully Enclosed Building					
	3.110 Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys and other professionals, insurance and stock brokers, travel agents, government office buildings, etc.				L	L
	3.120 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use				L	L
	3.130 Offices or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area				L	L
	3.140 Banks and other offices and services with drive-in windows				L	L
	3.200 Operations Conducted Within and/or Outside Fully Enclosed Building					
	3.210 Operations designed to attract and serve customers or clients on the premises				L	L
	3.220 Operations designed to attract little or no customer or client traffic other than the employees of the entity operating the principal use				L	L
4.000	MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT					
	4.100 All Operations Conducted Entirely Within Fully Enclosed Building					
	4.110 Majority of dollar volume of business done with walk-in trade				L	S
	4.120 Majority of dollar volume of business not done with walk-in trade				L	S
	4.200 Operations Conducted Within or Outside Fully Enclosed Building					
	4.210 Sawmills and planing mills				S	
5.000	EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, AND FRATERNAL USES					
	5.100 Schools					
	5.110 Elementary and secondary (including associated grounds and athletic and other facilities)		L	L	L	S
	5.120 Trade or vocational schools				L	L
	5.200 Churches, Synagogues and Temples (including associated residential structures for religious personnel, and associated buildings including school buildings)		L	L	L	L
	5.300 Libraries, Museums, Art Galleries, Art Centers and	S	S	S	L	L

Use	Description	District				
		R1	R2	R3	MU	MU-1
	Similar Uses (including associated educational and instructional activities)					
	5.400 Fraternal Clubs and Lodges and Similar Uses		S	S	L	L
6.000 RECREATION, AMUSEMENT, ENTERTAINMENT						
	6.100 Activity Conducted Entirely Within Building or Substantial Structure					
	6.110 Bowling alleys, skating rinks, indoor tennis and squash courts, indoor athletic and exercise facilities and similar uses				S	
	6.120 Movie theatres				S	
	6.130 Coliseums, stadiums and all other facilities listed in the 6.100 classification designed to seat or accommodate simultaneously more than 1,000 people				S	
	6.140 Gamerooms, bingo, billiards, pool halls, dance hall (see Section 180.4)				S	S
	6.200 Activity Conducted Primarily Outside Enclosed Buildings or Structures					
	6.210 Privately-owned outdoor recreational facilities such as golf and country clubs, etc. (but not including campgrounds), not constructed pursuant to a permit authorizing the construction of some residential development	S	S	S	S	S
	6.220 Publicly-owned and operated outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, campgrounds, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school	S	S	S	S	S
	6.230 Golf driving ranges not accessory to golf courses, Par 3 golf courses, miniature golf courses	S	S	S	S	
	6.240 Horseback riding stables (not constructed pursuant to a permit authorizing residential development)		S	S	S	
	6.250 Automobile and motorcycle racing tracks, skateboard parks, water slides, and similar uses				S	
	6.260 Drive-in movie theatres				S	
	6.270 Campgrounds				S	
	6.280 Marinas	S	S	S	S	S
7.000 INSTITUTIONAL RESIDENCES OR CARE OR CONFINEMENT FACILITIES						
	7.100 Hospitals, Clinics, Other Medical (including mental health) Treatment Facilities in Excess of 10,000 Square Feet of Floor Area				S	S
	7.200 Nursing Care Institutions, Intermediate Care Institutions, Handicapped, Aged or Infirm Institutions, Child Care Institutions				S	S
	7.300 Institutions (other than halfway houses) Where Mentally Ill Persons Are Confined				S	S
	7.40 Penal & Correctional Facilities				S	S
8.000 RESTAURANTS, BARS, NIGHT CLUBS						
	8.100 Restaurants					
	8.110 Eat-in, carry out or delivery service; no drive-in service				L	L
	8.120 Drive-in service				S	

Use	Description	District				
		R1	R2	R3	MU	MU-1
	8.200 Bars, Night Clubs				S	S
9.000 MOTOR VEHICLE AND BOAT-RELATED SALES AND SERVICE OPERATIONS						
	9.100 Motor Vehicle and Farm Equipment				L	
	9.120 Boat Sales or Rental	S	S	S	L	L
	9.130 Boat Service				L	L
	9.140 Boat Fuel Services				L	S
	9.200 Automobile Service Stations				L	
	9.300 Gas Sales Operations				L	
	9.400 Automobile Repair Shop or Body Shop				L	
	9.500 Car Wash ³				LS	
10.000 STORAGE AND PARKING						
	10.100 Automobile Parking Garages or Parking Lots Not Located on a Lot on Which There is Another Principal Use to Which the Parking is Related				L	L
	10.200 Storage of Goods Not Related to Sale or Use of Those Goods on the Same Lot Where They Are Stored					
	10.210 All storage within completely enclosed structures				L	
	10.220 Storage outside completely enclosed structures				L	
	10.230 Self-service storage facility				L	
11.000 SCRAP MATERIALS, SALVAGE YARDS, JUNKYARDS, AUTOMOBILE GRAVEYARDS					S	
12.000 SERVICES AND ENTERPRISES RELATED TO ANIMALS						
	12.100 Veterinarian, Animal Clinic, No Outside Kennel				L	L
	12.200 Veterinarian, Animal Clinic, Outside Kennel				S	S
	12.300 Pet Cemetery				L	
13.000 EMERGENCY SERVICES						
	13.100 Police Stations	S	S	S	L	L
	13.200 Fire Stations	S	S	S	L	L
	13.300 Rescue Squad, Ambulance Service				L	L
	13.400 Emergency Management Operation	L	L	L	L	L
14.000 AGRICULTURE, FORESTRY, MINING, QUARRYING OPERATIONS						
	14.100 Agricultural Operations, Farming					
	14.110 Excluding livestock	L	L	L	L	
	14.200 Mining or Quarrying Operations, Including On-site Sales Of Products				S	
	14.300 Reclamation Landfill				S	
	14.400 Agricultural Product Warehousing				L	
15.000 MISCELLANEOUS PUBLIC AND SEMI-PUBLIC FACILITIES AND RELATED USES						

³9.500

L = If proposed use is not located adjacent to a residential zoning district or use.
S = If proposed use is located adjacent to a residential zoning district or use.

Use	Description	District				
		R1	R2	R3	MU	MU-1
15.100	Main Post Office				L	
15.110	Post office substation				L	L
15.200	Airports					
15.210	Publicly-owned or operated airports				L	
15.220	Privately-owned airport	S	S	S	L	
15.300	Sanitary Landfill				S	
15.310	County-owned or operated				S	
15.320	Other				S	
15.400	Military Reserve, National Guard Centers				L	
15.600	Recycling Materials Collection Operations				L	
16.000 DRY CLEANER, LAUNDROMAT					L	S
17.000 UTILITY FACILITIES						
17.100	Neighborhood	S	S	S	S	S
17.200	Community or Regional	S	S	S	S	S
17.300	County-owned or Operated	S	S	S	S	S
17.400	Electric Substations	S	S	S	S	S
18.000 TOWERS AND RELATED STRUCTURES						
18.100	Towers and Antennas 75 Feet Tall or Less	L	L	L	L	L
18.200	Towers and Antennas More Than 75 Feet Tall	S	S	S	S	S
19.000 OPEN AIR MARKETS						
19.100	Farm, Craft, Produce Markets				L	L
19.200	Flea Markets				L	
20.000 FUNERAL HOME					L	
21.000 CEMETERY AND CREMATORIUM						
21.100	Cemetery Not On Same Property As Church	S	S	S	S	
21.200	Cemetery On Same Property As Church		L	L	L	
21.300	Crematorium				S	
22.000 NURSERY SCHOOLS; DAY CARE CENTERS (Child/Adult)		S	S	S	L	S
23.000 TEMPORARY STRUCTURES USED IN CONNECTION WITH THE CONSTRUCTION OF A PERMANENT BUILDING OR FOR SOME NON-RECURRING PURPOSE (See Section 165)		L	L	L	L	L
24.000 BUS STATION; TRAIN STATION; TAXI OPERATION						
24.100	Bus Station, Train Station				L	L
24.200	Taxi Operation				L	L
25.000 COMMERCIAL GREENHOUSE OR NURSERY						
25.100	No On-Premises Sales				L	L
25.200	Sales of Products Grown on Premises				L	L
25.300	On-Premises Sales, Including Related Accessory Products				L	L
26.000 COMBINATION USES (See Section 154)		LS	LS	LS	LS	LS

Use	Description	District				
		R1	R2	R3	MU	MU-1
27.000	PLANNED UNIT DEVELOPMENT	S	S	S	S	S

Section 147
Permissible Uses and Specific Exclusions

- 1) The presumption established by this chapter is that all legitimate uses of land are permissible within at least one development district in the Town’s planning jurisdiction. Therefore, because the list of permissible uses set forth in Section 146 (Table of Permissible Uses) cannot be all-inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
- 2) All uses that are not listed in Section 146 (Table of Permissive Uses), even given the liberal interpretation mandated by subsection (a), are prohibited. Nor shall Section 146 (Table of Permissible Uses) be interpreted to allow a use in one development district when the use in question is more closely related to another specified use that is permissible in other development districts.
- 3) The following uses are specifically prohibited in all districts:
 - (a) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the Town’s fire prevention code.
 - (b) Use of a travel trailer as a permanent residence. Temporary use may be granted for a period of up to six months with the issuance of a land use permit. (Situations that do not comply with this subsection on the effective date of this chapter are required to conform within one year.)

Section 148
Accessory Uses

- 1) The Table of Permissible Uses (Section 146) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision

or multi-family development and would be regarded as accessory to such principal uses.

2) For purposes of interpreting subsection (1):

(a) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;

(b) To be “commonly associated” with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

Section 149

Permissible Uses Not Requiring Permits

No land use or special use permit is necessary for the following uses:

1) Streets.

2) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

3) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (State or Town) of the right-of-way.

Section 150

Change in Use

1) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

(a) A change involves a change from one principal use category to another.

(b) If the original use is a combination use (26.000) or planned unit development (27.000), the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.

(c) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes.

- (d) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.
 - (e) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise move out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use even though both tenants fall within principal use classification 2.113. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center—combination use) has not changed.
- 2) A mere change in the status of property from unoccupied to occupied or vice-versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.
 - 3) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

**Section 151 through 153
Reserved**

**Section 154
Combination Uses**

- 1) When a combination use comprises two or more principal uses that require different types of permits (land use and special use), then the permit authorizing the combination use shall be:
 - (a) A special use permit if any of the principal uses combined requires a special use permit.

(b) A land use permit in all other cases.

This is indicated in the Table of Permissible Uses by the designation “L” or “S” in each of the columns adjacent to the 26.000 classification.

- 2) When a combination use consists of a single-family detached residential subdivision and two-family or multi-unit uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

Section 155 More Specific Use Controls

Whenever a development could fall within more than one use classification in the Table of Permissible Uses (Section 146), the classification that most closely and most specifically describes the development controls. For example, a small doctor’s office or clinic clearly falls within the 3.110 classification (office and service operations conducted entirely indoors and designed to attract customers or clients to the premises). However, classification 3.130, “physicians’ and dentists’ offices and clinics occupying not more than 10,000 square feet of gross floor area” more specifically covers this use and therefore is controlling.

Sections 156 and 157 Reserved

**ARTICLE X
SUPPLEMENTARY USE REGULATIONS**

**Section 158
Reserved**

**Section 159
Automobile Service Stations/Gas Sales Operations**

Certification by a registered engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage and sanitary sewer systems.

**Section 160
Multi-Unit Development**

- 1) At streets, multi-unit dwelling setback lines shall be 15 feet from the right-of-way. At all other property lines, multi-unit setback lines shall be 7 feet. If a multi-unit dwelling abuts an R-1, R-2 or R-3 lot, the multi-units setback shall be 20 feet from any R-1 or R-2 property line.
- 2) Each multi-unit dwelling shall set back 14 feet from other dwelling structures within the same development, unless greater setbacks are required by the North Carolina State Building Code.
- 3) For all driveways, parking areas, and other impervious surfaces serving multi-unit dwellings, no setback from the property line is required in the MU district. If a driveway, parking area or other impervious surfaces serving a multi-unit development abuts an R-1 or R-2 lot, the setback line for such driveway, parking area or other impervious surface shall be 7 feet from any R-1, R-2 or R-3 property line.
- 4) A fence or a screen of dense plant material not less than 6 feet high is required where multi-unit development abuts a single-family residential lot. This provision may be waived by the abutting property owners' consent at the time of permitting.
- 5) The developer/owner of a proposed multi-unit project shall have an informational meeting for property owners whose property is within three-hundred (300) feet of the property line of a proposed multi-unit project as reflected on the current Pamlico County tax roles. The notification of this meeting shall take place prior to submitting an application to the town for a special use permit and shall include a brief description of the project, the date, time, and location of the meeting. The notice shall be sent by first class mail a minimum of ten (10) days prior to the meeting.

Section 161 Golf Courses

All golf course greens, tees and fairways (use classification 6.210 and 6.220) shall be set back at least 50 feet from any property line.

Section 162 Walls and Fences

The setback requirements of these regulations shall not prohibit any necessary retaining wall nor prohibit buffer strip, fence or wall. Walls and fences shall not create a sight obstruction at street intersections or at driveways.

Section 163 Planned Unit Developments

- 1) All buildings shall be separated by not less than fourteen (14) feet.
- 2) The yard and height regulations set forth in Article XI may be modified for a planned unit development as a whole, excluding streets, easements and required buffers but including parks and other permanent open spaces. Such modification must be indicated on the face of the Special Use Permit. There shall not be less than the required area per dwelling unit for the district in which such development is located. The development itself shall have a minimum frontage of 100 feet in all permitted districts which shall be used only for driveways, landscaping, and screening.
- 3) Land not shown as lots or reserved for residential or nonresidential development shall be commonly owned land. Such land shall be designated on the development plan as common area to be held in separate ownership for the use and benefit of residents of the planned unit development (PUD).

Section 164 Towers Over 75 Feet Tall

- 1) Towers and antennas more than 75 feet tall, including relay stations, for commercial operations such as cable television, radio telephones, radio and television stations are allowed in all development districts only with the issuance of a Special Use Permit if the Town Commissioners find that the evidence presented at the hearing establishes each of the following:
 - (a) Radio or television or similar reception for adjoining properties will not be disturbed or diminished.

- (b) The height of the tower does not exceed five hundred (500) feet.
 - (c) The lighting of the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lighting system contained in Advisory Circular No. 70/7460-IF dated 27 September 1978, as they may amend the same.
 - (d) The minimum yard setback from the outside dimensions of the tower, not from guy anchors, to any adjoining lot or public right-of-way is at least one hundred (100) percent of the tower height. All guy wires, however, must be situated on the same lot as the tower.
 - (e) A fence or wall surrounds the base of the tower and each guy anchor at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building more than eight (8) feet in height. Except fence and wall entrances, all fences and walls shall be screened with plant material so that no more than two-thirds of the surface of the fence or wall is visible within three (3) years after erection of the structure from a public street or from any adjoining lot which contains a dwelling.
 - (f) The use will not be injurious to property or improvements in the affected area.
- 2) If determined by the Town that the proposed tower is situated in a location which will benefit the Town's telecommunications systems, then, the tower shall be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system.
 - 3) If the tower is between one hundred (100) feet and one hundred eighty (180) feet in height, the tower shall be engineered and constructed to accommodate a minimum of one (1) additional telecommunication user. If the tower exceeds a height of one hundred eighty (180) feet, the tower shall be engineered and constructed to accommodate a minimum of two (2) additional telecommunication users. Any co-location may be approved by administrative approval.

Section 165

Temporary Emergency, Construction, or Repair Residences

Temporary residences and offices used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project and prior to the issuance of a final certificate of occupancy.

Section 166

Sign Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Abandoned sign: A sign or sign structure, which has not been utilized for a period of one hundred eighty (180) days or more, or a sign, the contents of which pertain to a place, time, event or purpose which no longer exists, applies or which has occurred. Such signs shall be considered a public nuisance.

Adjacent: Adjacent shall mean a tract of real property contiguous to another tract of real property, including a tract separated by a road, easement or right-of-way.

A-frame board: A freestanding a-frame shaped board and shall be considered temporary. Size limited to no more than four (4) feet by thirty (30) inches and to be removed daily at the close of business.

Animated sign: Any sign using flashing or intermittent lights, sound, color changes or other mechanical or electrical means to give motion to the sign or the impression of motion or movement to the sign or any sign with visible moving, revolving or relocating parts.

Area of sign: The area of a sign shall be considered to be that of the smallest linear figure, which encompasses all lettering, wording, frame design or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of the sign, but supports and bracing which are not intended as part of the sign shall be excluded.

Attached: Any sign painted or affixed to the face of the outside wall or roof of any building and supported throughout by such wall or roof.

Business directional sign: A non-advertising sign used solely for the purpose of directing traffic to a business embedded in a residential zone.

Canopy or awning sign: A roof-like shelter of fabric or other material extending over a doorway, from the top of a window, over a deck, etc., in order to provide protection from the weather or for decoration on which a sign is integrated.

Commemorative sign: Any sign, marker, tablet or monument erected in remembrance of an historic person, place, event or which denotes, honors, celebrates or acknowledges an historic person, place or event as long as sign meets N.C. Department of Cultural Resources standards.

Construction sign: Any sign that identifies firms and/or builders and which is erected on the premises of the construction site during the period of construction.

Dangerous sign: Any sign, which the sign administrator determines to be dangerous or prejudicial to the public health or safety.

Development sign: Any ground sign or wall sign that is erected for the limited period on a development or building project for the purpose of identification of the project.

Double-faced sign: A sign with two (2) parallel or nearly parallel faces back to back and located not more than twelve (12) inches from each other are considered as one (1) sign.

Directional sign: A sign that indicates the location of public buildings, parks, schools, hospitals, scenic or historic places and places of worship.

Entrance sign: Any sign identifying a subdivision or other large development and located at the major entrance point or points to such development.

Exempt sign: Any sign that is specifically listed as exempt from this ordinance. The United States Flag shall be exempted from these restrictions, but the length of the flag shall not exceed one-quarter ($\frac{1}{4}$) the height of the flagpole size. Additionally, insignia of any legal government displayed in a legal manner is exempt. Said listed exempt signs are not regulated by the terms of this ordinance and shall not require a permit.

Façade: Front or principal face of a building.

Freestanding sign: A sign that is supported by a sign structure placed in the ground and which is wholly independent of any building, fence, vehicle or object other than the structure for support.

Ground sign: A freestanding sign flush to the ground and not elevated upon poles or stanchions and not attached to a building.

Hanging sign: Any sign suspended from a brace, arm, ceiling or other overhead support.

Height of sign: The distance as measured from the general grade of the lot.

Holiday decoration: Decoration normally associated with a recognized holiday season.

Home occupation sign: A sign in association with a legitimate home occupation conducted on the premises of a single-family dwelling occupied by the operator of the business. Limited to one sign no larger than four (4) square feet.

Indirectly illuminated sign: A sign which is illuminated by an external method of artificial illumination, including lighting of any type which has the effect of making the sign visible during non-daylight hours.

Internally illuminated sign: A sign where the light source is concealed within the sign visible through a translucent surface.

Kiosk sign: An attached sign advertising a permanent freestanding service.

Maintenance of sign: For the purpose of this ordinance, maintenance shall include those activities and procedures listed in Section 167 (5) of this ordinance. Work done to restore or repair a sign which is damaged or destroyed shall be considered repairs and shall comply with the provisions of this ordinance.

Marquee sign: A projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a building.

Menu-board/specials board: A sign affixed to the building and shall be considered temporary.

Merchandise: Goods and commodities that sit upon the premises and are bought and sold within a business's premises and not to be construed as signage or advertising.

Non-conforming sign: Any sign that is erected and in place prior to the adoption of this ordinance and which does not conform to the provisions of this ordinance is declared a non-conforming sign. A sign that is erected and that is in place and which conforms to the provision of the sign ordinance at the time it is erected, but which does not conform to an amendment to this ordinance enacted subsequent to the erection of said sign is declared a non-conforming sign.

Obscene sign: Signs which contain obscene, suggestive, or offensive words, or words and pictures, which would be inconsistent with a family oriented community.

Occupant/street number sign: A sign bearing only the name of the principal occupant of a residence or street number of any residential, commercial or other structure. Size not to exceed one (1) square foot.

Off-premise sign: Any sign advertising a product, service, business or activity which is sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity is sold, located or conducted on such premises only incidentally, if at all.

On-premise sign: Directs attention to a business, profession, commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

Political or campaign sign: Refers only to the issues or candidates involved in religious, charitable, civic, fraternal, political and similarly organized elections.

Size not to exceed twelve (12) square feet and must be removed within seven (7) days after the election.

Portable or moveable sign: A sign with a permanent frame and a display area for changeable copy, designed or intended to be relocated and not permanently affixed to the ground or structure. This shall include signs on wheels, trailers, or any other device, which is intended to be moved from one location to another. Use of sign is limited for special or charitable events or events that are in the Town or of special interest to the Town and not for advertising businesses or merchandize. Sign must be removed within fourteen (14) days of event.

Premise: A tract of real property in single ownership, which is not divided by a public street or right-of-way.

Prohibited sign: The following signs, or element of signs, shall not be permitted:

- (a) Signs which contain obscene, suggestive, or offensive words, or words and pictures, which would be inconsistent with a family oriented community;
- (b) Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign;
- (c) No floodlights or signs shall be erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property; and
- (d) Signs which are erected in a street right-of-way, or placed in a street right-of-way or placed in such a manner as to obstruct driver vision of any vehicle entering a roadway from any street, alley, driveway, or parking lot.

Projecting sign: A sign that is mounted or attached to an exterior wall of a building or structure and which projects out from the wall more than twelve (12) inches.

Real estate sign: A sign that advertises the sale and/or lease of the property on which the sign is located. For MU, MU-1, R-1, R-2 and R-3 districts, one sign per each street frontage that is no greater than four (4) square feet, which must come down 7 days after sale or rental of property. For S (shoreline) properties, one residential "for sale" sign per property, which shall not exceed six (6) square feet.

Residential sign: Small neat signs denoting private property or private piers. In MU, MU-1, R-1, R-2 and R-3 the size shall not exceed one (1) square foot. In S, the size shall not exceed six (6) square feet.

Right-of-way signs: Signs which are erected in a street right-of-way, or placed in a street right-of-way, or placed in such a manner as to obstruct driver vision of any vehicle entering a roadway from any street, alley, driveway, or parking lot.

Roof sign: A sign affixed to the roof of a building.

Safety imitation signs: Signs which imitate, or in any way approximate, official highway signs, or which are erected in a way that obscures a sign displayed by a public authority.

Shoreline sign: A sign that is intended to be read from the water.

Sign administrator: An employee of the Town of Oriental shall be designated by the Town Board to administer and enforce the provisions of the sign ordinance.

Street pavement signage: No signage drawn on street pavement of any kind, other than those placed by the town or state.

Temporary pole sign: Signs identifying commercial interest or advertising signs placed on public utility poles, telephone poles, trees, parking meter poles, benches, and refuse containers, except the latter two (2) may display a logotype.

Temporary sign or banner: A sign with or without a structural frame and intended for a limited period of display provided, however, a temporary sign does not include a portable or moveable sign as herein defined.

Time/temperature sign: A sign that displays time and temperature in alternating light cycles.

Wall sign: A sign that is attached flat to a wall, or façade facing of a building and projecting not more than twelve (12) inches from a wall.

Warning or danger sign: A sign erected by a public utility or construction company to warn of hazardous conditions.

Window sign: A sign with or without a structural frame located in the window of a business establishment.

Yard sale sign: A sign with or without a structural frame and intended for the express advertisement of a sale of personal goods by an individual or organization during a limited period of time.

Section 167 Administration

1) General:

- (a) The subject matter of all advertising signs shall be limited to advertising businesses or services available in the Town;

- (b) No sign of any type, or any part thereof, shall be erected, painted, posted, placed, replaced or hung in any zoning district or the shoreline except in compliance with this article;
 - (c) All signs must comply with the building code requirements of the Town and the State of North Carolina; and
 - (d) No sign to which this Article applies shall be erected in any public right-of-way.
- 2) Obtaining Permits: Permits may be obtained by filing with the sign administrator a written request containing or having attached thereto the following information:
- (a) Name, address and telephone number of applicant and owner of land on which sign is to be located if different from applicant.
 - (b) A drawing approximately to scale showing the design of the sign, including dimensions, method of attachment, or support, source of illumination and showing the relationship to any building or structure to which it is, or is proposed to be, installed or affixed.
 - (c) A plot plan, approximately to scale, indicating the location of the sign relative to property lines, easements, streets, sidewalks, and other signs.
 - (d) Two (2) copies of the plans and specifications of the sign, including methods of construction and attachment to building, structure or ground.
 - (e) Name of person erecting the sign.
 - (f) If the applicant is not the owner of the property at the proposed sign location, the owner shall also sign the permit application.
 - (g) It is the responsibility of the applicant to keep the sign administrator aware of any change of address/contact information.
 - (h) The sign administrator, upon receiving an application for a permit, shall examine said application, all other pertinent data and the premises upon which the proposed sign is to be erected. If it shall appear that the proposed sign is in compliance with all of the requirements of this Article and all other ordinances of the Town, and meets all building and electrical codes of the Town and State, if applicable, he shall then issue the permit.
 - (i) A schedule of fees for sign permits shall be determined by the Town Board and made available from the sign administrator.

- 3) Time Limits: The erection of new sign structures shall not commence until a permit has been issued. The sign structure must be completely constructed and erected within one hundred eighty (180) days from the date of issuance of the permit. The provisions of this subsection (3) shall not apply when delays are not a result of willful acts or neglect of the persons obtaining the permit. In that event, the sign administrator may grant an extension of thirty (30) days of time within which operation must be started or resumed. All requests for such extensions and approval thereof shall be in writing.
- 4) Construction: All signs shall be constructed and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution, as specified in the NC Building Code. Where wood materials are used they shall be treated to inhibit decay and insect damage, and signs shall be built of durable material.
- 5) Maintenance: The following maintenance requirements must be observed for all off-premise and on-premise signs visible from any public street or highway within the jurisdiction of this ordinance, and the sign administrator shall inspect all signs for compliance with such requirements.
 - (a) No sign shall have more than twenty (20%) percent of its surface area covered with disfigured, cracked, ripped or peeling paint or poster paper for a period of more than thirty (30) successive days.
 - (b) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts or be allowed to stand more than fifteen (15) degrees away from the perpendicular for a period of more than thirty (30) successive days.
 - (c) No sign shall be allowed to have weeds, vines, landscaping or other vegetation growing upon it and obscuring its view from the street or highway from which it is to be viewed for a period of more than thirty (30) successive days.
 - (d) No directly or indirectly illuminated sign may be allowed to stand with only partial illumination for a period of more than thirty (30) successive days.
 - (e) If a sign is damaged such that more than fifty (50%) percent of the value is lost, with such determination made by the sign administrator, any repair or replacement must be done in conformance with this ordinance.
- 6) Non-Conforming Signs: Signs in existence prior to adoption of this ordinance and which do not conform to the provisions of this Article are declared non-conforming signs. Non-conforming signs may be continued, provided they:
 - (a) Were erected prior to adoption of this ordinance;
 - (b) Shall not be expanded or relocated;

- (c) Shall not be modified in any way, which increases their degree of non-conformity;
- (d) Shall not be re-established after damage or destruction in excess of fifty (50%) percent of the sign square footage at the time of the damage or destruction; and
- (e) Are not to be replaced with another non-conforming sign nor modified in any way except as noted in subsection (5) above.

7) Removal: With respect to any sign not in compliance with this ordinance, the owner of the sign and owner of the property on which the sign is erected if different, shall be notified by regular mail to the last known address that they have thirty (30) days to bring such sign into compliance. If it is not brought into compliance, such sign may be removed by the Town at the expense of the owner of the sign or the owner of the property where the sign is located, or both. If a sign is located on public right-of-way, public property or public trust area, the Town may remove said sign at the expense of the owner twenty-four (24) hours after notification. If a sign is a public nuisance or detrimental to public health and safety, the Town may remove said sign at the expense of the owner twenty-four (24) hours after notification.

8) Enforcement: The provisions of this ordinance shall be enforced by the sign administrator. Wherever the sign administrator becomes aware of any violation of this ordinance, he/she shall notify the record owner of the property of such violation by certified mail addressed to the owner at the address he/she has listed with the Town. The notice shall inform the owner of the violation and requirement that such sign be removed or conformed to the ordinance within thirty (30) days of the date of the notice. Where the owner of the sign is not the owner of the property, the sign administrator shall also notify the owner of the property of the violation.

9) Penalties: It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this Article. Any act constituting a violation of this Article shall also subject the offender to a civil penalty in the amount of fifty dollars (\$50.00). Each day that any violation continues after receipt of a written notice of such violation shall constitute a separate violation and a separate offense for purposes of the penalty specified herein. If the offender fails to pay the penalty within ten (10) days of receiving a written notice of such violation, the penalty may be recovered by the Town in a civil action in the nature of a debt. In addition to the penalties provided for herein, any person found owing the Town a penalty due hereunder shall be required to pay the court costs, including a reasonable attorney's fee incurred by the Town to collect the debt.

10) Appeals and Variances: Exceptions or hardships produced by this ordinance may be appealed to the sign administrator who, in conjunction with the Planning Board, shall review the request to determine if it is allowable. The following

questions must be considered in the review: a). will the change materially endanger public health or safety: b). how will the change affect joining or abutting property: c). would the change be in harmony with existing signage in the area in which the sign is to be located. A special use permit issued by the Town Board is required for any sign not included in the above.

Section 168

Table of Exempt Signs, Prohibited Signs, and Signs Requiring a Permit

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
<p>Abandoned sign: A sign or sign structure, which has not been utilized for a period of one hundred eighty (180) days or more, or a sign, the contents of which pertain to a place, time, event or purpose which no longer exists, applies or which has occurred. Such signs shall be considered a public nuisance.</p>		<p>MU, MU-1, R-1, R-2, R-3, S</p>		
<p>A-frame board: A freestanding a-frame shaped board and shall be considered temporary. Size limited to no more than four (4) feet by thirty (30) inches and to be removed daily at the close of business.</p>	<p>MU, MU-1</p>	<p>R-1, R-2, R-3, (S n/a)</p>		
<p>Animated sign: Any sign using flashing or intermittent lights, sound, color changes or other mechanical or electrical means to give motion to the sign or the impression of motion or movement to the sign or any sign with visible moving, revolving or relocating parts.</p>		<p>MU, MU-1, R-1, R-2, R-3, S</p>		
<p>Business directional sign: A non-advertising sign used solely for the purpose of directing traffic to a business embedded in a residential zone.</p>			<p>MU, MU-1, R-1, R-2, R-3, S</p>	<p>Sign can be no larger than four (4) square feet and placed at one or more locations as determined by the sign administrator.</p>

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
<p>Canopy or awning sign: A roof-like shelter of fabric or other material extending over a doorway, from the top of a window, over a deck, etc., in order to provide protection from the weather or for decoration on which a sign is integrated.</p>		<p>R-1, R-2, R-3, S n/a</p>	<p>MU, MU-1</p>	<p>MU-Whether one (1) business or multiple businesses, the area of signage must be delineated, cannot exceed thirty-two (32) square feet and is included in the total signage allowed for free-stand for free-standing on premise signs, MU-! – Whether one (1) business or multiple businesses, the area of signage must be delineated, cannot exceed twenty (20) square feet and is included in the total signage allowed for free-standing on-premise signs.</p>
<p>Commemorative sign: Any sign, marker, table or monument erected in remembrance of an historic person, place, event or which denotes, honors, celebrates or acknowledges an historic person, place or event as long as sign meets N.C. Department of Cultural Resources standards.</p>	<p>MU, MU-1, R-1, R-2, R-3, (S n/a)</p>			
<p>Construction sign: Any sign that identifies firms and/or builders and which is erected on the premises of the construction site during the period of construction.</p>			<p>MU, MU-1, R-1, R-2, R-3 (S n/a)</p>	<p>MU – One sign with the size limited to thirty-two (32) square feet with a maximum height of twelve (12) feet to be erected after permit is issued; MU-1 – one sign with the size limited to twenty (20) square feet with a</p>

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
				maximum height of nine (9) feet to be erected after permit is issued and removed after certificate of occupancy is issued; R-1, R-2 & R-3 – one sign with the size limited to four (4) square feet with a maximum height of six (6) feet to be erected as soon as permit is issued and removed after certificate of occupancy is issued.
Dangerous sign: Any sign, which the sign administrator determines to be dangerous or prejudicial to the public health or safety.		MU, MU-1, R-1, R-2, R-3, S		
Development sign: Any ground sign or wall sign that is erected for the limited period on a development or building project for the purpose of identification of the project.		R-1, (S n/a)	MU, MU-1, R-2, R-3	Sign must be removed one (1) year from issuance of permit or when certificate of occupancy is issued, whichever happens first. Size requirements are the same as for construction sign .
Double-faced sign: A sign with two (2) parallel or nearly parallel faces back to back and located not more than twelve (12) inches from each other are considered as one (1) sign.		R-1, R-2, R-3, S	MU, MU-1	Maximum size of sign can be no greater than thirty-two (32) square feet and only one side to be calculated for square footage.
Directional sign: A sign that indicates the location of public buildings, parks, schools, hospitals, scenic or historic places and	MU, MU-1, R-1, R-2, R-3			

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
places of worship.	(S n/a)			
Entrance sign: Any sign identifying a subdivision or other large development and located at the major entrance point or points to such development.			MU, MU-1, R-1, R-2, R-3 (S n/a)	Area of sign can be no greater than twenty (20) square feet.
Holiday decoration: Decoration normally associated with a recognized holiday season.	MU, MU-1, R-1, R-2, R-3 (S n/a)			
Home occupation sign: A sign in association with a legitimate home occupation conducted on the premises of a single-family dwelling occupied by the operator of the business. Limited to one sign no larger than four (4) square feet.	MU, MU-1, R-1, R-2, R-3 (S n/a)			
Indirectly illuminated sign: A sign which is illuminated by an external method of artificial illumination, including lighting of any type which has the effect of making the sign visible during non-daylight hours.		R-1, R-2, R-3	MU, MU-1, S	No floodlights or signs shall be erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property.
Internally illuminated sign: A sign where the light source is concealed within the sign visible through a translucent surface.		R-1, R-2, R-3	MU, MU-1, S	No floodlights or signs shall be erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property.
Kiosk sign: An attached sign advertising a permanent free-standing service.		R-1, R-2, R-3 S	MU, MU-1	

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
Marquee sign: A projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a building.		MU, MU-1, R-1, R-2, R-3 (S n/a)		
Menu-board/specials board: A sign affixed to the building and shall be considered temporary.	MU, MU-1	R-1, R-2, R-3 (S n/a)		Sign can be no larger than eighteen (18) inches by twenty-four inches in size.
Obscene sign: Signs which contain obscene, suggestive, or offensive words, or words and pictures, which would be inconsistent with a family oriented community.		MU, MU-1, R-1, R-2, R-3, S		
Occupant/street number sign: A sign bearing only the name of the principal occupant of a residence or street number of any residential, commercial or other structure. Size not to exceed one (1) square foot.	MU, MU-1, R-1, R-2, R-3 (S n/a)			
Off-premise sign: Any sign advertising a product, service, business or activity which is sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity is sold, located or conducted on such premises only incidentally, if at all.		R-1, R-2, R-3	MU, MU-1	MU – Area of sign limited to no more than thirty-two (32) square feet and height no more than twelve (12) feet; MU-1 – area of sign is limited to no more than twenty (20) square feet and height no more than nine (9) feet.
On-premise sign: Directs attention to a business, profession, commodity, service, or entertainment sold or offered upon the		R-1, R-2, R-3	MU, MU-1, S	MU – Where there is one (1) business on a lot or located in a single building, the business

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
premises where such sign is located or to which it is attached.				<p>may have signage not to exceed thirty-two (32) square feet. Where there are multiple businesses located on a lot or in a building, the location may have free-standing signage up to thirty-two (32) square feet. Any free standing sign cannot exceed twelve (12) feet in height. In addition, each individual business located in the building may have signage attached to the building not to exceed twelve (12) square feet.</p> <p>MU-1 – Where there is one (1) business on a lot or located in a single building, the business may have signage not to exceed twenty (20) square feet, Where there are multiple businesses located on a lot or in a building, the location may have free-standing signage up to twenty (20) square feet. Any free standing sign cannot exceed nine (9) feet in height. In addition, each individual business located in the building may have signage attached to the building not to exceed eight</p>

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
				(8) square feet. S – not to exceed four (4) square feet for charter boats and limit one sign per boat; any other commercial sign not to exceed one (1) square foot on any gangway, pier or dock and limited to one (1) sign; a single land sign relating to above businesses not to exceed sixteen (16) square feet when facing water.
Political or campaign sign: Refers only to the issues or candidates involved in religious, charitable, civic, fraternal, political and similarly organized elections. Size not to exceed twelve (12) square feet and must be removed within seven (7) days after the election.	MU, MU-1, R-1, R-2, R-3, S			
Portable or moveable sign: A sign with a permanent frame and a display area for changeable copy, designed or intended to be relocated and not permanently affixed to the ground or structure. This shall include signs on wheels, trailers, or any other device, which is intended to be moved from one location to another. Use of sign is limited for special or charitable events or events that are in the Town or of special interest to the Town and not for advertising businesses or		R-1, R-2, R-3, S	MU, MU-1	

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
merchandize. Sign must be removed within fourteen (14) days of event.				
Projecting sign: A sign that is mounted or attached to an exterior wall of a building or structure and which projects out from the wall more than twelve (12) inches.		R-1, R-2, R-3, (S n/a)	MU, MU-1	
Real estate sign: A sign that advertises the sale and/or lease of the property on which the sign is located. For MU, MU-1, R-1, R-2, R-3 districts, one sign per each street frontage that is no greater than four (4) square feet, which must come down 7 days after sale or rental of property. For S (Shoreline) properties, one residential “for sale” sign per property, which shall not exceed six (6) square feet.	MU, MU-1, R-1, R-2, R-3, S			
Residential sign: Small neat signs denoting private property or private piers. In MU, MU-1, R-1, R-2, R-3 the size shall not exceed one (1) square foot. In S, the size shall not exceed six (6) square feet.	MU, MU-1, R-1, R-2, R-3, S			
Right-of-way signs: Signs which are erected in a street right-of-way, or placed in a street right-of-way, or placed in such a manner as to obstruct driver vision of any vehicle entering a roadway from any street, alley, driveway, or parking lot.		MU, MU-1, R-1, R-2, R-3, (S n/a)		
Roof sign: A sign affixed to the roof of a building.		MU, MU-1, R-1, R-2, R-3,		

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
		(S n/a)		
Safety imitation signs: Signs, which imitate, or in any way approximate, official highway signs, or which are erected in a way that obscures a sign displayed by a public authority.		MU, MU-1, R-1, R-2, R-3, S		
Street pavement signage: No signage drawn on street pavement of any kind, other than those placed by the town or state.		MU, MU-1, R-1, R-2, R-3, (S n/a)		
Temporary pole sign: Signs identifying commercial interest or advertising signs placed on public utility poles, telephone poles, trees, parking meter poles, benches, and refuse containers, except the latter two (2) may display a logotype.		MU, MU-1, R-1, R-2, R-3, S		
Temporary sign or banner: A sign with or without a structural frame and intended for a limited period of display provided, however, a temporary sign does not include a portable or moveable sign as herein defined.	MU, MU-1, S *Except where noted	R-1, R-2, R-3		One sign in the town that is promoting activities of non-profits & charities or special events within the town that is of primary interest to the town, which shall be erected no more than thirty (30) days before such event and is to be removed fourteen (14) days after such event. A business can use a temporary sign or banner to advertise provided that the sign not be displayed for a period longer than

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
				fourteen (14) days; or a temporary sign or banner less than twelve (12) square feet in size in MU and less than eight (8) square feet in size in MU-1 may be used in lieu of a permanent sign if a permit is obtained. *Where used in lieu of a permanent sign a permit will be required.
Time/temperature sign: A sign that displays time and temperature in alternating light cycles.		MU, MU-1, R-1, R-2, R-3,S		
Wall sign: A sign that is attached flat to a wall, or façade facing of a building and projecting not more than twelve (12) inches from a wall.		R-1, R-2, R-3, (S n/a)	MU, MU-1	MU – sign area cannot exceed thirty-two (32) square feet; MU-1 – sign area cannot exceed twenty (20) square feet.
Warning or danger sign: A sign erected by a public utility or construction company to warn of hazardous conditions.	MU, MU-1, R-1, R-2, R-3, S			
Window sign: A sign with or without a structural frame located in the window of a business establishment.		R-1 & R-2, R-3, n/a	MU, MU-1, S	Any window sign that is not a temporary sign or banner shall account toward the allowable square footage for the business or structure but cannot exceed twenty-five (25%) of window coverage.

DEFINITIONS OF SIGNS	EXEMPT	PROHIBITED	PERMIT REQUIRED	RESTRICTIONS
<p><i>Yard sale sign.</i> A sign with or without a structural frame and intended for the express advertisement of a sale of personal goods by an individual or organization during a limited period of time.</p>	<p>MU, MU-1, R-1, R-2, R-3, S</p>			<p>Signs must be temporary in nature, shall not be placed in the public right-of-way, shall not be placed on public utility poles, telephone poles, traffic signs, trees, parking meter poles, benches, refuse containers, are limited to a 3-day display period: and must be removed at the end of the final day of sale.</p>

**ARTICLE XI
DENSITY AND DIMENSIONAL REGULATIONS**

**Section 181
Minimum Lot Size**

1) All lots in the following districts shall have at least the amount of square footage indicated in the following table:

<u>District</u>	<u>Minimum Square Feet</u>
R-1	10,000
R-2	5,000 for residential uses; 8,000 for nonresidential uses;
R-3	5,000 for residential uses; 8,000 for nonresidential uses

MU/MU-1 5,000 for residential uses;
8,000 for nonresidential uses

- 2) The minimum lot sizes set forth in this Section are permissible only if and to the extent that adequate water and sewer facilities are or can be made available to serve every lot.
- 3) Deviations from the applicable lot size requirement of this Section may be made for nonconforming lots in accordance with Section 123 (1).

**Section 182
Residential Density**

Every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.

<u>District</u>	<u>Minimum Square Feet</u>
R-1	10,000
R-2	5,000 for 1 unit; 3,000 for each additional unit*
R-3	5,000 for 1 unit; 3,000 for each additional unit*
MU	5,000 for 1 unit; 3,000 for each additional unit*
MU-1	5,000 for 1 unit; 3,000 for each additional unit*

*When more than one Single-family Detached Dwelling Unit is located on one lot, each unit shall require the minimum lot size that would otherwise be required if the structures were located on individual lots.

**Section 183
Minimum Lot Widths**

- 1) The lot width shall be measured at the front minimum building line.

District	Lot Width
R-1	60'
R-2	50'
R-3	50'
MU	50'
MU-1	50'

- 2) Deviations from the applicable lot width requirements of this section may be made for nonconforming lots in accordance with Section 123 (1).
- 3) If a structure is subject to an inspection for compliance with “North Carolina Farm Labor Rules and Regulations,” the lot area requirement will be based on the number of residents allowed by the regulations. One thousand (1,000) square feet of lot area shall be required for each resident.
- 4) Business use of residential property is allowed provided the business area does not exceed 400 square feet. If the business area exceeds 400 square feet, the use will be considered “non-residential.”

Section 184
Building Setback Requirements

- 1) Subject to Section 181, no portion of any building may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth below.
 - (a) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.
 - (b) As used in this section, the term “lot boundary line” refers to lot boundaries other than those that abut streets. The term “street side” refers to the street side of a corner lot other than the front street.

- (c) As used in this section, the term “building” includes any substantial structure, which, by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Gas pumps and overhead canopies or roofs shall be deemed to fall within this description.
- (d) Setback distances shall be measured from the property line or street right-of-way, perpendicularly thereto, to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself, including any porches, air conditioning units, steps, eaves, gutters, and similar features.
- (e) Cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, porches, and similar features, may not project into any setback area.
- 2) Setback distances shall be measured from the property line or street right-of-way line to appoint on the lot that is the nearest extension of any part of the building. No part of a building shall be in contact with the ground beyond the setback lines. No other cantilevered structures may extend beyond the setback lines, including structures that function as both roof overhangs and a deck or floor platform.

**Table 184-1
Building Setbacks**

District	Minimum Distance From Front Street Right-of-Way	Minimum Distance From Street Side Right-of-Way	Minimum Distance From Street Centerline	Minimum Distance From Side Boundary Line	Minimum Distance From Rear Lot Boundary Line
R-1	30'	20'	60'	10'	15'
R-2*	15'	15'	40'	7'	7'
R-3*	15'	15'	40'	7'	7'

MU*	15'	15'	40'	7'	7'
MU-1*	15'	15'	40'	7'	7'

*When more than one Single-family Detached Dwelling Unit is located on one lot, each dwelling unit must be set back at least 14 feet from any other dwelling unit located on the same lot, in addition to the standards in Table 184-1, above.

**Section 185
Building Height Limitations**

- 1) No building shall exceed a total height of 35 feet above the lowest adjacent finished grade, or 43.5 feet above mean sea level, whichever is higher.
- 2) The height of the main roof eave (the projecting overhang at the lower edge of a roof), excluding dormers, of any building shall not exceed 32 feet above the lowest adjacent grade and no exterior wall of a building without an eave shall exceed 32 feet above the lowest adjacent grade. The level of the lowest adjacent grade shall be measured out ten (10) feet from a line plumb with the outermost edge of the eave.
- 3) New construction may exceed height limits specified in Section 185 (1) by up to five (5) feet, provided that for each additional one (1) foot above specified height limits, all street setbacks are increased by three (3) feet, and all side line and rear setbacks are increased by one (1) foot, or for each additional one (1) foot above specified height limits, all street setbacks are increased by two (2) feet, and all side line and rear setbacks are increased by two (2) feet.
- 4) Existing structures proposed to be raised solely to comply with the minimum elevation requirements imposed by Pamlico County are exempt from the height limitations of this section only to the extent of the distance needed to achieve such compliance. When an existing building is replaced or additional height is added to an existing structure other than by or in addition to raising the first floor, the height limits of this section are applicable.
- 5) Subject to subsection (6), the following features are exempt from the district height limitations set forth in subsection (1). Chimneys, not to exceed three (3) feet above the highest point of the structure, church spires and

flagpoles.

6) Towers and antennas are allowed in all development districts to the extent authorized in the Table of Permissible Uses, use classification 18.000.”

Section 186 Lot Coverage

1) The formula to calculate the Floor Area Ratio (FAR) is:

$$\text{FAR} = \frac{\text{Building(s) Footprint}}{\text{Site Area}}$$

- 2) No building or combination of buildings located in the R-1 District shall cover more than thirty percent (30%) of the area on which it is located.
- 3) No building or combination of buildings located in the R-2 or R-3 District shall cover more than thirty-five percent (35%) of the area on which it is located.
- 4) No building or combination of buildings located in the MU or MU-1 District shall cover more than forty percent (40%) of the area on which it is located.
- 5) No more than fifty percent (50%) of the area of any lot located in the R-1, R-2 or R-3 District shall be covered with surfaces impervious to water.
- 6) No more than sixty percent (60%) of the area of any lot located in the MU or MU-1 District shall be covered with surfaces impervious to water.

Sections 187 through 195

Reserved

ARTICLE XII PARKING

Section 196 Number of Parking Spaces Required

- 1) Developments in all growth management districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.
- 2) When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.
- 3) Off-street parking shall be provided according to the following schedule:
 - (a) Single-family dwellings (Use 1.100): 2 spaces per dwelling;
 - (b) Multi-unit dwellings (Use 1.300): 2 spaces per dwelling unit;
 - (c) Business use of residence (Use 1.700): 1 space in addition to those required for dwellings;
 - (d) Motels, Hotels (Use 1.540), and Bed and Breakfasts (Use 1.520): 1½ spaces for each room available for rent;
 - (e) Restaurants (Use 8.100): 1 space for every 100 square feet of gross floor area in the building plus 1 space for every 150 square feet of outside dining area;
 - (f) Marinas (Use 6.280): 1 space for every 2 boat slips;
 - (g) All other businesses: 1 space for each business, plus one space for every 400 square feet of gross floor area in the building.
- 4) The presumptions established by this Article are that (i) a development must comply with the parking standards set forth in Subsection (3) to satisfy the requirements stated in Subsection (1), and (ii) any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in Subsection (5).

- 5) The council recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Subsection (c) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in Subsection (4), the permit-issuing authority with the written approval of the Planning Board may permit deviations from the presumptive requirements of Subsection (3) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in Subsection (1).
- 6) The council recognizes that the Table of Parking Requirements set forth in Subsection (3) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered the permit-issuing authority with the written approval of the Planning Board is authorized to determine the parking requirements using this table as a guide.
- 7) Whenever the permit-issuing authority with the written approval of the Planning Board allows or requires a deviation from the presumption parking requirements set forth in Subsection (3), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

Section 197
Parking Space Dimensions

- 1) Each parking space shall contain a rectangular area at least twenty feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces created the rectangular area required by this section.
- 2) Parking spaces designated for use by a handicapped person shall meet the minimum standards and requirements of the N.C. State Building Code for handicapped parking spaces.

Section 198 General Design Requirements

Parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. Back out parking is permitted upon the issuance of a special use permit.

Section 199 Parking Area Surfaces

- 1) Parking areas shall be graded and surfaced with crushed stone, gravel, asphalt, concrete, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. This requirement does not apply to any project which is required to provide four parking spaces or less.
- 2) Individual spaces within a parking area shall be demarcated with landscape timbers, paint lines, or in some other practical manner. This requirement does not apply to any project which is required to provide four parking spaces or less.

Section 200 Satellite Parking

If the number of off-street parking spaces required by this chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots with the issuance of a Special Use Permit. In issuing the Special Use Permit, the Town Commissioners will make the findings required in Section 58 and must additionally find that satisfactory written evidence is presented that shows that permission to use the off-site parking has been granted by the owner of the property, and that the use of the property for parking will continue as long as parking is required.

Section 201 Special Provisions For Lots With Existing Buildings

Notwithstanding any other provision of this chapter, whenever (i) there exists a lot with one or more structures on it constructed before the effective date of this chapter, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking requirements of Section 196 (3) that would be applicable as a result of the proposed change cannot be satisfied on such lot because

there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of Section 196(3) to the extent that (i) parking space is practically available on the lot where the development is located, and (ii) satellite parking space is reasonably available as provided in Section 200. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

Section 202 Landscaping of Parking Lots

The purpose of this section is to require buffers and landscaping of commercial and multifamily parking lots in the Town of Oriental. To insure the preservation of land values in commercial and residential districts by creating and insuring an environmental quality that is most compatible with the development of this land.

- 1) Parking lots containing six or more parking spaces and fronting a street right-of-way shall provide a five (5) foot planting area along the entire street frontage. A suitable ground cover and/or shrubbery shall be maintained in the planting area.
- 2) Ten (10) percent of the parking area in parking lots that contain ten (10) or more parking spaces is to be landscaped (exclusive of landscaping on the street frontage), provided that:
 - a) No landscaping area shall be less than 100 square feet in area or less than five (5) feet in width.
 - b) A minimum of one tree (including the tree island) is required for every ten (10) parking spaces.
 - c) Each landscape area shall be planted with a tree at least 1 – ½ inches caliper, and that tree maintained or replaced if it dies. A suitable ground cover and/or shrubbery will be provided in each landscape area.
 - d) Existing plants may be incorporated into the design provided that , in the opinion of the Tree Board, the plants will survive construction and meet the purpose and spirit of the ordinance.
- 3) This ordinance applies to the construction of new parking lots containing six (6) or more parking spaces that are visible from a public right-of-way. This ordinance also applies to the repair, rehabilitation or expansion of any existing parking lot if such repair, rehabilitation or expansion would increase the number of existing spaces by more than 25% or 4 spaces, whichever is less.

- 4) The Planning Board shall refer parking lot landscape plans to the Tree Board for review before final approval.

**Sections 203 through 209
Reserved**

ARTICLE XIII AMENDMENTS

Section 210 Amendments in General

- 1) Amendments to the text of this chapter or to the growth management map may be made in accordance with the provisions of this Article.
- 2) As provided in G.S. 160A-385(b), amendments, modifications, supplements, repeal or other changes in land use regulations and restrictions and development boundaries shall not be applicable or enforceable without consent of the owner with regard to building and uses for which either (i) a building permit has been issued pursuant to G.S. 160A-417 prior to the enactment of the ordinance making the change or changes as long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422 or (ii) a vested right has been established pursuant to G.S. 160A-385.1 and the provisions of Section 217 of this ordinance and such vested right remains valid and unexpired.
- 3) The administrator shall not accept an application for an amendment on the same property more than once in a twelve-month period without special approval by the Town Commissioners. The twelve-month period shall commence on the date an amendment request is denied by the Town Commissioners. If an amendment request has been denied by the Planning Board and withdrawn by the applicant prior to final action by the Town Commissioners, the twelve-month period shall be deemed to have commenced on the date of denial by the Planning Board. The dimensional increase or decrease of an area sought to be changed by an amendment request shall not negate this rule. Where an amendment has been applied for by a community group, charitable or governmental organization, the Town Commissioners or the Planning Board and was denied or withdrawn prior to final action, applications by an individual property owner will be accepted within the twelve-month period without Town Commissioners approval. Special approval of the Town Commissioners may be granted following a recommendation from the Planning Board, for any of the following grounds:
 - (a) Materially changed conditions;
 - (b) Clerical error was the basis for the previous development district designation;
 - (c) Newly discovered evidence of adverse impact of the current development district designation which by due diligence could not have been discovered in time for the earlier hearing; or
 - (d) Substantially changed amendment request.

Section 211 Initiation of Amendments

- 1) Whenever a request to amend this chapter is initiated by the Town Commissioners, the Planning Board, or the Town administration, in consultation with the Town Attorney, shall draft an appropriate ordinance and set a date for a public hearing.
- 2) Any other person may also petition the Town Commissioners to amend this ordinance. The petition shall be filed with the administrator and shall include, among the information deemed relevant by the administrator:
 - (a) The name, address, and phone number of the applicant;
 - (b) A legal description and a scaled map of the land affected by the amendment if a change in development district classification is proposed; and
 - (c) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this chapter.
- 3) Petitions for amendments shall be submitted to the administrator 15 days prior to the date of the public hearing at which the petition will be reviewed.

Section 212 Planning Board Consideration of Proposed Amendments

After the public hearing on a proposed amendment is set, the proposed amendment shall be referred to the Planning Board for its consideration. After having considered the matter and the Planning Board is not prepared to make recommendations, the Planning Board may request the Town Commissioners to delay final action on the amendment until such time as the Planning Board can present its recommendations.

Section 213 Hearing Required; Notice

- 1) No ordinance that amends any of the provisions of this chapter may be adopted until a public hearing has been held on such ordinance.
- 2) The administrator shall publish a notice of the public hearing on any ordinance that amends the provisions of this chapter once a week for two successive weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days nor more than

twenty-five (25) days before the date fixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be counted.

- 3) With respect to map amendments, the administrator shall mail written notice of the public hearing by certified mail, return receipt requested, to the record owners for tax purposes of all properties whose development district classification is changed by the proposed amendment and a first-class notification of the public hearing to the owners of all properties any portion of which is within 100 feet of the property rezoned by the amendment.
- 4) The public notice to the newspaper and property owners required by this section shall:
 - (a) State the date, time, and place of the public hearing;
 - (b) Summarize the nature and character of the proposed change;
 - (c) State that the full text of the amendment can be obtained from the administrator; and
 - (d) State that substantial changes in the proposed amendment may be made following the public hearing.
- 5) The person or persons mailing notices to adjoining property owners, as defined in G.S. 160A-384, shall certify to the Town Commissioners that fact.

Section 214

Town Commissioners' Action on Amendments

- 1) After receiving a recommendation from the Planning Board on a proposed amendment, the Town Commissioners may proceed to vote on the proposed ordinance amendment, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.
- 2) The Town Commissioners shall await the recommendations of the Planning Board before taking action on a proposed amendment, but the Town Commissioners are not bound by any recommendations of the Planning Board that are before it at the time it takes action on a proposed amendment.
- 3) The Town Commissioners are required to take final action on an amendment within 65 days preceding the first meeting of the board to consider the application, since inordinate delays can result in the applicant incurring unnecessary costs. This provision need not apply to an amendment initiated by the Town itself.

- 4) Voting on amendments to this chapter shall proceed in the same manner as other ordinances, subject to Section 216.

Section 215

Ultimate Issue Before Town Commissioners on Amendments

In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Town Commissioners is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and excluded. When considering proposed map amendments:

- 1) The Town Commissioners shall not consider any representations made by the petitioner that, if the change is granted, the property in question will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Town Commissioners shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.
- 2) The Town Commissioners shall not regard the advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Section 216

Protests to Development District Changes

- 1) If a petition opposing a change in the development district classification of any property is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Town Commissioners membership. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered 'members of the council' for calculation of the requisite supermajority. In accordance with G.S. 160A-385(a), provisions concerning protests shall not be applicable to any amendment which initially regulates property added to the territorial coverage of the ordinance as a result of annexation or otherwise.
- 2) To invoke the four-fifths vote requirement, the petition must:
 - (a) Be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change; or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be reclassified. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than entire parcel is

subject to the proposed growth management map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.

- (b) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.
 - (c) Be received by the administrator in sufficient time to allow the Town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.
- 3) A person who has signed a protest may withdraw his or her name from the petition at any time prior to the vote on the proposed growth management amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. 160A-385 at the time of the vote on the growth management amendment shall trigger the supermajority voting requirement.
- 4) The foregoing provisions concerning protests shall not be applicable to any amendment which initially classifies property added to the territorial coverage of the ordinance as a result of annexation or otherwise.

Section 217

Vested Right

- 1) Requests to establish vested rights according to NCGS §160A-385.1 shall provide the information required for a special use permit request and shall follow the amendment procedure outlined in this Article.
- 2) Vested rights may be terminated in any of the following ways:
 - (a) The landowner agrees, in writing, to relinquish the vested right;
 - (b) After notice and hearing the Town Commissioners determine that there are natural or manmade hazards that would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan;
 - (c) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant fees incurred after approval by the Town, together with interest thereon at the legal rate until

- paid. Compensation shall not include any diminution in the value of the property, which is caused by such action;
- (d) Upon findings by the Town Commissioners, after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval of the site specific development plan;
 - (e) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and hearing; or
 - (f) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

**Sections 218 through 225
Reserved**

ARTICLE XIV BASIC DEFINITIONS AND INTERPRETATIONS

Section 226 Definitions of Basic Terms

Unless otherwise specified, the words and phrases defined in this Section shall have the meaning indicated when used in this chapter.

Accessory Use: A use or activity that is customarily incidental to a specific principal use and is located on the same lot as the associated principal use.

Administrator: The person designated to administer the Oriental Growth Management Ordinance (see Section 40).

Agricultural Operations: Agricultural operations (use classification 14.000) include establishments (e.g., farms, ranches, dairies, orchards, hatcheries, broiler houses) primarily engaged in the production of crops, plants, vines, or trees and the keeping, grazing, or feeding of livestock. Livestock as used here includes cattle, sheep, goats, hogs, and poultry as well as animal specialties such as horses, rabbits, bees, pets, fur-bearing animals in captivity, and fish in captivity. Agricultural operations also include establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities. Commercial greenhouses and nurseries are classified separately for purposes of this ordinance (see commercial greenhouse definition).

Alterations: Any addition to the height or depth of a building; any change in the location of exterior walls of a building; or any increase in the interior accommodations of a building.

Antenna: Equipment designed to transmit or receive electronic signals.

Automotive Repair and Maintenance: An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement and transmission repair and/or providing other related services, such as upholstery or glass replacement. This use includes service stations, bodywork, or painting.

Bed and Breakfast: A private home offering bed and breakfast accommodations.

Boarding House: A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer-term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

Board of Adjustment: A quasi-judicial board, appointed by the Oriental Town Commissioners, composed of residents of Oriental residing in the regulatory jurisdiction.

Building: A structure designed to be used as a place of occupancy, business, assembly, storage or shelter.

Building, Accessory: A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

Building, Principal: The primary building on a lot or a building that houses a principal use.

Canopy: A structure, either detached from or attached to and extending from the enclosed portion of a building and used primarily to provide shelter in connection with activities conducted in the principal building.

Car Wash: A facility where motor vehicles are washed, cleaned and/or waxed by hand or with manually operated equipment or automatic machinery.

Certify: Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other written document or form.

Child Care Home: A home for not more than nine orphaned, abandoned, dependent, abused, or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

Child Care Institution: An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children.

Combination Use: A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permissible Uses, Section 146. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established (see Section 154). In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.

Commercial Greenhouses and Nurseries: Establishments primarily engaged in the production of ornamental plants and other nursery products such as bulbs,

flowers, shrubbery, flower and vegetable seeds and plants, agricultural plants and sod. Such products may be grown under cover or outdoors (use classification 25.000).

Communication (Transmission) Tower: A structure, either freestanding or attached to a building, principally intended to support and/or radiate or receive a source of non-ionizing electromagnetic radiation (NIER) and accessory equipment related to broadcast services, private radio services, cellular telephone services and common carriers (as regulated by the Federal Communications Commission), including AM, FM, two-way radio, television and cable antenna television transmission and reception and microwave transmission. The term transmission tower does not include electrical or conventional telephone transmission lines or supporting structures, antenna of amateur radio (ham) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes and antennae less than seventy-five (75) feet in height with transmitting power of 250 watts or less.

Convenience Store: A one story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). It is designed to attract and depends upon a large volume of “stop and go” traffic.

Day Care Center: A child day care facility as defined in G.S. 110-86 as well as a center providing day care on a regular basis for more than two hours per day for more than five adults.

Density: The ratio of dwelling units permitted on a lot to the area of the lot. Density is expressed in this chapter as the number of units per one (1) acre.

Developer: A person who is responsible for any undertaking that requires a land use permit or a special use permit.

Development: That which is to be done pursuant to a land use permit or a special use permit.

Dimensional Nonconformity: A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Domiciliary Home: A facility, by whatever name called, which provides residential care for aged or disabled persons whose principal need is a home that provides the supervision and personal care appropriate to their age or disability. Domiciliary homes are to be distinguished from nursing care homes. The three types of domiciliary homes are handicapped or infirm homes, child-care homes, and intermediate care homes.

Driveway: That portion of the parking area that consists of a travel lane bounded on either side by an area that is not part of the parking area.

Dwelling Unit: An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

Expenditure: A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in financial position.

Family: One or more persons living together as a single housekeeping unit.

Family Care Home: An adult care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons.

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

Game Room: A use providing video games or other games for playing for amusement and recreation. Any table games such as air hockey, football, pinball, or the like shall be included under this definition.

Government Offices: The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state, and local government.

Gross Floor Area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Halfway House: A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in G.S. 35-17(30)), or antisocial or criminal conduct, together with persons providing supervision and other service to such persons, all of whom live together as a single housekeeping unit.

Handicapped or Infirm Home: A residence within a single dwelling unit for at least two but not more than nine persons who are physically or mentally handicapped or infirm, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

Handicapped or Infirm Institution: An institutional facility housing and providing care or assistance for more than nine persons who are physically or mentally

handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

Handicapped Person: 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 not including mentally ill persons who are dangerous to others as defined in NCGS §122C-3(11)b.

High Volume Traffic Generation: All uses in the 2.000 classification other than low volume traffic generation uses.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to proposed walls of the structure.

Homeless Shelter: A facility owned or operated by an agency for persons who are in need of temporary housing due to various unusual circumstances.

Home Occupation: The use of a dwelling unit located in a residential district for commercial activities that are clearly subordinate to the principal residential use of the dwelling.

Impervious Surface: Any material, such as asphalt, concrete, crushed stone, or other similar material less than $\frac{3}{4}$ (three-quarter) inch in diameter that provides a surface that is stable and will help to reduce dust and erosion, which reduces or prevents absorption of storm water into previously undeveloped land.

Intermediate Care Home: A facility maintained for the purpose of providing accommodations for not more than nine occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermediate Care Institution: An institutional facility maintained for the purpose of providing accommodations for more than nine persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Junkyard: An establishment or place of business that is maintained, operated or used for storing, keeping, buying or selling junk or for maintenance or operation of a vehicular junkyard and shall include sanitary landfills.

Kennel: A commercial operation that: (i) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), (ii) engages in the breeding of animals for sale, or (iii) engages in the training or breeding of animals.

Land Use Permit: A permit issued by the land use administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

Lot: A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Lot Width: The distance between the side lot lines at the front minimum building line.

Low Volume Traffic Generation: Uses such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

Manufactured Home: A dwelling unit that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the building site.

Manufactured Home, Class A: A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after July 1, 1976), which is of multi-sectional or double-wide design and meets the following appearance criteria:

- (a) Has a minimum width of sixteen (16) feet;
- (b) Has a gable roof having a pitch with a minimum vertical rise of three and one-half (3½) feet for each twelve (12) feet of horizontal run;
- (c) Has a continuous, permanent brick, stone or stucco curtain wall or foundation, or vinyl underpinning, unpierced except for ventilation and access, installed under the home;
- (d) Has a roof finished with roofing material with a fire rating of Class C or better and that is commonly used in standard residential construction;
- (e) Has a roof structure that provides an eave projection of no less than six (6) inches, which may include a gutter;
- (f) Is set up in accordance with the standards set by the North Carolina Department of Insurance;
- (g) Has stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of

Insurance and attached firmly to the primary structure and anchored securely to the ground;

- (h) The moving hitch, wheels and axles and transporting lights have been removed; and
- (i) The unit contains 1,200 square feet or more of heated floor space.

Manufactured home, Class B: A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after July 1, 1976), which is of multi-sectional or single-wide design and meets the following appearance criteria:

- (a) Has a minimum width of eight (8) feet;
- (b) Has a gable roof having a pitch with a minimum vertical rise of three and one-half (3½) feet for each twelve (12) feet of horizontal run;
- (c) Has a roof finished with roofing material with a fire rating of Class C or better and that is commonly used in standard residential construction;
- (d) Has a roof structure that provides an eave projection of no less than six (6) inches, which may include a gutter;
- (e) Has a continuous, permanent brick, stone or stucco curtain wall or foundation, or vinyl underpinning, unpierced except for ventilation and access, installed under the home;
- (f) Is set up in accordance with the standards set by the North Carolina Department of Insurance;
- (g) Has stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance and attached firmly to the primary structure and anchored securely to the ground; and
- (h) The moving hitch, wheels and axles and transporting lights have been removed.

Manufactured Structure, Commercial: A prefabricated building constructed and designed for transportation on its own chassis or by truck after fabrication and intended for other than residential use. These structures shall be constructed to meet the standards of the North Carolina Building Code. A converted manufactured home does not meet these criteria. A commercial manufactured structure meeting these standards shall be allowed for permanent placement for commercial and industrial uses.

Marina: Any water area with a structure (dock, basin, floating dock, dry stacking facility, etc.) which is utilized for docking, mooring, or dry stacking vessels and constructed to provide temporary or permanent docking or storage space for more than ten (10) boats. Boat ramp facilities providing access only are excluded.

Nonconforming Lot: A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area or dimensional requirement of the district in which the lot is located.

Nonconforming Project: Any structure, development, or undertaking that is incomplete on the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nonconforming Situation: A situation that occurs when, on the effective date of this chapter, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and set-back requirements) is not in conformity with this chapter, or because land or buildings are used for purposes made unlawful by this chapter.

Nonconforming Use: A situation occurring when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use). The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with operating a bakery in a residentially designated area constitutes a nonconforming use.)

Nursing Care Home: A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine persons.

Nursing Care Institution: An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

Parking Space: A portion of parking area set aside for the parking of one vehicle, not less than twenty (20) feet long by nine (9) feet wide.

Person: An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

Pervious Surface: Any material such as stone, marl or gravel, or other similar material $\frac{3}{4}$ (three-quarter) inch or larger in diameter which enhances or allows absorption of storm water into previously undeveloped land.

Planned Residential Development: A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit, and consisting of single-family detached residences combined with either two-family residences or multi-unit residences.

Planned Unit Development: A development constructed on a tract of at least twenty-five acres under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses on land. All planned unit developments are subject to the provisions of Section 163.

Planning Jurisdiction: The area within the town limits and the area beyond the town limits within which the Town is authorized to plan for and regulate development.

Planning Board: The body appointed by the Oriental Town Commissioners whose purpose is to make recommendations regarding land use matters.

Professional Offices: An establishment primarily engaged in providing: engineering, architectural and surveying services; accounting, auditing and bookkeeping services; consulting, public relations services; legal services; real estate services; the services of insurance agents, brokers and carriers; the services of security and commodity brokers; and the services of bank holding companies.

Public Water Supply System: Any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof.

Residence, Multi-Unit: A residential use consisting of a building containing two or more dwelling units. For the purposes of this definition, a building including all dwelling units that are enclosed within that building or attached to it by a common floor or wall (including without limitation the wall of an attached garage or porch).

Residence, Primary with Accessory Apartment: A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than twenty-five percent of the gross floor area of the building nor more than a total of 750 square feet.

Residence, Single-Family Detached, More Than One Dwelling Per Lot: A residential use consisting of two or more single-family detached dwelling units on a single lot.

Residence, Single-Family Detached, One Dwelling Unit Per Lot: A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.

Residence, Temporary Dependent Care: A temporary residence on the same lot as a principal dwelling. Such temporary residence, which may be an apartment or manufactured home (if permitted in the district in which proposed to be located), is intended for short-term occupancy by a person or persons receiving care and/or supervision by a related person or persons occupying the principal dwelling.

Road: All private ways used to provide motor vehicle access to (i) two or more lots or (ii) two or more distinct areas or buildings in unsubdivided developments.

Rooming House: (See Boarding House)

Satellite Dish Antenna or Satellite Earth Station: An antenna and attendant processing equipment for reception of electronic signals from satellites. Antennas and dishes exempted from local land use regulations by the Telecommunications Act of 1996 are not subject to these provisions.

Restaurant: An establishment, which serves food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas.

Shopping Center: A group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas all located on a parcel of land.

Special Events: Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for longer than two days but not longer than two weeks, (ii) are intended to or likely to attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special Use Permit: A permit issued by the Town Commissioners that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Town Commissioners.

Street: A public street or a street with respect to which an offer of dedication has been made.

Structure: Anything constructed or erected.

Subdivision: The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions: (i) the combination or recombination of

portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter, (ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or (iii) the public acquisition by purchase of strips of land for widening or opening streets; or (iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter.

Tower: See Communications Tower.

Tract: (See Lot definition) The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one “tract” is subdivided into several “lots.”

Travel Trailer: A structure that (i) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and (ii) is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definitional criteria of a mobile home.

Use: The activity or function that actually takes place or is intended to take place on a lot.

Use, Principal: A use listed in the Table of Permissible Uses, Section 146.

Utility Facilities: Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, corporation, or any entity defined as a public utility for any purpose by G.S. 62-3 and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures.

Utility Facilities, Community or Regional: All utility facilities other than neighborhood facilities.

Utility Facilities, Neighborhood: Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

Variance: A grant of permission by the Board of Adjustment that authorizes the recipient to do that which, according to strict interpretation, he could not otherwise legally do.

Wholesale Sales: On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

UPDATES

December 7, 2005

Modifications were made to pages 39 and 96. Some items were underlined (amounts on pg 39 and the word permanent under kiosk on pg 96)

January 20, 2006

All January amendments were added. Pages were re-printed.

January 30, 2006

Section 135 and Section 146 updated.

February 20, 2006

Section 185 updated.

April 10, 2006

Section 160, Section 54, Part II-Subdivisions, Appendix A, Subsection 4