

ARTICLE XI – Overlay Districts and Supplementary Use Regulations

Part 1. Overlay Districts.

§ 152-158. Downtown Retail Overlay District (“DROD”) Requirements. *(Amended 3/28/16, 4/25/16)*

The Downtown Retail Overlay District (“DROD”) encompasses most of the core of the Town of Aberdeen’s historic central business district, which includes numerous historic structures and has traditionally been the heart of commercial life in Aberdeen. The purpose of this district is to preserve and revitalize this core, so that it can house unique businesses offering goods and services that will make the Aberdeen downtown both a destination for visitors and a vital part of the community for years to come. Moreover, the DROD is intended to be a place where small businesses can locate and thrive. To this end, the DROD allows and encourages retail sales and services and entertainment establishments but it limits or prohibits noncommercial uses that generate little or no tax revenue or are open only infrequently or at irregular times.

(A) Within the DROD, the uses enumerated in this section shall apply in lieu of those uses set forth in the underlying zoning district. All other requirements of the underlying zoning district shall apply.

(B) Uses in the First Story (Street Level) of Buildings in the DROD.

(1) The following uses shall be permitted of right in the first story of all buildings within the DROD:

- Offices,
- Retail Sales,
- Retail Services,
- Department stores; and
- Restaurants, (includes sit-down and take-out establishments; indoor and outdoor seating are allowed; drive-through windows are prohibited)*.

* Restaurants serving food outdoors may need to obtain an encroachment agreement from the Town. Consult with the Town Planning Department about this.

(2) Storage may be permitted in the first story of all buildings within the DROD provided it is incidental to the business in operation at the DROD and provided the first thirty (30) percent, measured from the primary entrance, is open to the public and shall not be used for storage. This area shall be used for any other permitted or conditional use permit in the first story of buildings in the DROD. The bulk storage of volatile, flammable, or toxic chemicals or compounds is prohibited.

(3) The following uses shall be permitted with a conditional use permit in the first story of all buildings within the DROD:

Dry cleaners,
Entertainment establishments,
Entertainment restaurants,
Neighborhood Bars,
Bars, and
Laundromats.

(C) Uses on Floors Other than the First Story in Buildings in the DROD.

(1) The following uses shall be permitted of right on any floor other than the first story of all buildings within the DROD:

Retail sales;
Retail services;
Offices;
Churches, synagogues, mosques, temples and other religious uses;
Department stores;
Dwelling, single family and multi-family;
Restaurant, (includes sit-down and take-out establishments; indoor and outdoor seating are allowed)*.

* Restaurants serving food outdoors may need to obtain an encroachment agreement from the Town. Consult with the Town Planning Department about this.

(2) The following uses shall be permitted with a conditional use permit on floors other than the first floor of buildings within the DROD:

Educational and instructional uses;
Entertainment establishments;
Entertainment restaurants;
Neighborhood Bars;
Bars;
Warehousing and storage, provided that the bulk storage of volatile, flammable or toxic chemicals or compounds is prohibited.

(D) Game rooms, pool halls are prohibited in the DROD.

(E) If a single use or business requires different permits (i.e. a certificate of zoning compliance and a conditional use permit) to operate on different floors of a building, then a conditional use permit shall be required for the entire use or business.

§ 152-159. Highway Corridor Overlay District (“HCOD”) Requirements.

(A) Property located within the HCOD shall be subject to the regulations of the underlying district and the regulations of the HCOD. To the extent that these ordinances conflict, the regulations of the HCOD shall govern.

(B) Application. The HCOD shall be applied to those properties or portions thereof that are located within 230 feet of the centerline of the pavement (as it existed on November 1, 2000) of N.C. 5 Highway (hereafter the “Highway”) within the town’s planning jurisdiction.

(C) Exemption from standards. The standards set forth in subsection (D) below shall not apply to properties developed exclusively for single family or two-family residential purposes.

(D) Standards. Subject to the other requirements of this section, the following requirements shall apply to all property developed within the HCOD:

(1) No building or other structure covered by a roof of canopy and no gas pumps may be located within sixty (60) feet of the centerline of the pavement of the Highway.

(2) The building setback area prescribed by subsection (D)(1) of this section shall not be used for the parking of motor vehicles.

(3) Driveway entrances onto the Highway shall be minimized to the extent consistent with public safety requirements. Unless otherwise prescribed by the North Carolina Department of Transportation, driveway widths shall not exceed thirty-six (36) feet at the right-of-way line, except where medians or entrance/exit islands are located.

(4) Landscape screens.

(a) A landscape screen shall be required to screen all parking and loading that would otherwise be plainly visible from the Highway. Such screens shall include plantings (which may be planted on an earthen berm) that create a screen that is opaque from the ground to a minimum height of four and one half (4 ½) feet within twenty-four (24) months of the initial planting(s), with intermittent visual obstruction from above the opaque portion to a height of between fifteen (15) feet and twenty (20) feet at maturity (but in no case later than eight (8) years after planting).

(b) The building setback area prescribed by subsection (D)(1) of this section shall be appropriately landscaped as provided herein. The total square footage of the setback area required to be landscaped shall be determined by multiplying the frontage of the property along the Highway times thirty (30) feet.

(c) Required plantings. The landscape screen within the setback shall include the following:

1. One (1) canopy or large evergreen tree (unless subject to overhead power lines, in which case trees shall be used as recommended by Carolina Power and Light in its booklet “Trees for the Carolinas,” dated August, 1999 (see Appendix J)) with a minimum three (3) inch caliper

and a minimum height of eight (8) feet shall be required per 100 square feet. At least thirty (30) percent of such trees must be deciduous and at least forty (40) percent of such trees must be evergreen.

2. One (1) understory tree with a minimum height of eight (8) feet shall be required per 500 square feet. At least thirty (30) percent of such trees must be deciduous and at least forty (40) percent of such trees must be evergreen.
3. One shrub with a minimum height of eighteen (18) inches and of a variety that can be expected to reach three (3) feet in height within five (5) years of planting shall be required per 200 square feet. Not more than thirty (30) percent of such shrubs may be deciduous.
4. Trees and shrubs shall be spaced along the entire frontage of the property (with appropriate breaks to provide ingress and egress and sight distances at driveway intersections) so that the development on the property is partially screened from the Highway.
5. The requirements of this subsection may be satisfied by preexisting trees and shrubs, newly planted trees and shrubs, or a combination of both.
6. The owner of any property where landscaping is required shall be responsible for the maintenance of all required vegetation and the replacement of any required tree or shrub that dies. Landscaped areas shall be kept in a neat and orderly manner, free from refuse and debris.

(5) Freestanding and Monument Sign Standards. Notwithstanding the sign standards of article XVII, "Sign Regulations," of this chapter, the following standards apply to lots or properties in the HCOD:

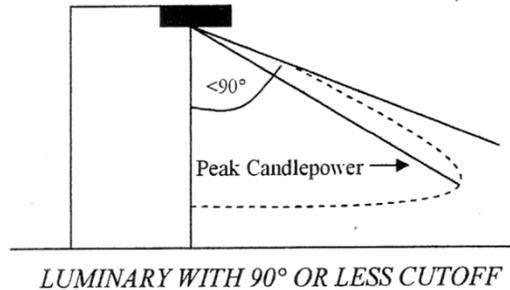
- (a) The maximum height for any freestanding sign shall be fifteen (15) feet. The maximum height for any monument sign shall be eight (8) feet.
- (b) The display area of a freestanding or monument sign shall not exceed thirty-two (32) square feet per side for signs for all lots fronting on a road, street or the Highway. Signs shall have words, display and other forms of advertising limited to two sides.

(6) Exterior Property Lighting Standards. The following standards are required of all exterior lighting located on a property in the HCOD, except for outdoor recreational uses specifically exempted below and as needed to illuminate state or municipal streets or roads.

- (a) Light fixtures and the poles they are mounted on must be black or a dark color and may not exceed twenty (20) feet in height. The light source must be white light. Luminaries shall be shielded or configured to cast the light

downward toward the ground, so as to prevent light from shining or reflecting beyond the lot line into neighboring property or onto any street or road so as to impair the vision of the driver of any vehicle upon such street or road. A luminary must have a cutoff of light at an angle of ninety degrees (90°) or less.

Example:



- (b) Under no circumstances may the light level at the lot line exceed 1.0 foot-candles when measured at ground level at the lot line. Nor shall the light level exceed 2.0 average maintained foot-candles when measured at ground level elsewhere on the site.
- (c) Exemption for outdoor recreational uses:
 - 1. Because of their unique requirements for nighttime visibility and their limited hours of operation, ball fields, playing fields, golf driving ranges and tennis courts are exempt from the above exterior lighting standards;
 - 2. The lighting fixtures for outdoor recreational uses specified above shall not exceed a maximum permitted post height of eighty (80) feet above ground level;
 - 3. The outdoor recreational uses specified above may exceed a total cutoff angle of ninety (90) degrees if the luminaire is shielded to prevent light and glare spillover to the adjacent roadway corridor or adjacent properties. Maximum permitted illumination at the interior of the setback area shall not exceed 2.0 foot-candles.
- (d) Measurement/Exterior Lighting Plan. When any exterior lighting is to be installed or substantially modified and/or whenever a zoning certificate is sought in which exterior lighting is to be used, an exterior lighting plan illustrating photometric pattern and foot-candle levels shall be submitted to the Land Use Administrator that certifies the level of illumination required in this section.

(7) Manufactured home sales or rentals (use # 9.120) are prohibited in the HCOD.

(E) Application of this section to preexisting development.

(1) Properties within the HCOD that have been developed in a manner that is not consistent with the standards set forth in subsection (D) of this section shall generally be subject to the provisions of section 152-122, “Continuation of Nonconforming Situations and Completion of Nonconforming Projects,” except as follows:

(a) For purposes of this subsection, the term “major site redevelopment” means changes to the property being considered or at issue that involves physical changes to more than one-half (1/2) of the square footage of the site or changes involving an estimated cost equal to or greater than one-half (1/2) of the value for tax purposes of all improvements on the site; and

(b) When a development permit is issued for any site that has been developed prior to May 3, 2001 in a manner that is inconsistent with the standards set forth in this section, compliance with these standards shall be required only if and to the extent that (i) the work proposed involves “major site redevelopment,” as defined above, and (ii) compliance is reasonably possible under all the applicable circumstances. Without limiting the generality of the foregoing, compliance shall not be required if it can be achieved only by removing significant expanses of pavement or substantial structures.

§ 152-160. Water Supply Watershed Overlay District Regulations.

(A) Establishment and Jurisdiction. This section is enacted in accordance with the provisions of G.S. §§ 143-214.5 and 160A-174, and the provisions of this section shall apply within the areas designated as a Public Water Supply Watershed by the NC Environmental Management Commission and shall be defined and established on the official Zoning Map of the Town and shall be further defined on the map as the Water Supply Watershed Overlay District.

(B) Exceptions to Applicability. The following shall be exempt from the requirements of this section:

(1) “Existing development,” as defined in this section, is not subject to the requirements of this section. Expansions to structures classified as existing development must meet the requirements of this section; however, the built-upon area of the existing development is not required to be included in the density calculations.

(2) A pre-existing lot owned by an individual prior to September 13, 1993, regardless of whether or not a vested right has been established, may be developed for single

family residential purposes without being subject to the restrictions of this section. However, this exemption is not applicable to multiple contiguous lots under single ownership.

(3) Vacant Lots. This category consists of vacant pre-existing lots for which plats or deeds have been recorded prior to September 13, 1993 in the office of the Moore County Register of Deeds. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

- (a) Where the lot area is below the minimum specified in this section, the Administrator is authorized to issue a watershed protection permit; and
- (b) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this chapter and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this section, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

(4) Occupied Lots. This category consists of lots occupied for residential purposes as of September 13, 1993. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this section, and such lots individually or together have less area than the minimum required for residential purposes in the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(5) Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this section that has been damaged or removed may be repaired and/or reconstructed, except that there are not restrictions on single family residential development, provided:

- (a) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage; and
- (b) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

(C) General Provisions.

(1) No subdivision plat of land within the Water Supply Watershed Overlay District shall be filed or recorded by the Moore County Register of Deeds until it has been approved in accordance with the provisions of this section. Likewise, the Moore County Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this section.

(2) The approval of a plat does not constitute or effect the acceptance by the town or the public of the dedication of any street or other ground, easement, right-of-way, public utility line or other public facility shown on the plat and shall not be construed to do so.

(3) All subdivisions shall conform with the mapping requirements contained in G.S. § 47-30.

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

(1) **Agricultural Use.** The use of waters for stock watering, irrigation and other farm purposes.

(2) **Best Management Practices (“BMP”).** A structural or nonstructural management based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

(3) **Buffer.** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

(4) **Building.** Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

(5) **Built-Upon Area.** Built-upon areas shall include that portion of a development project that is covered by impervious cover including buildings, pavement, gravel roads, recreation facilities and the like. (Note: Wooden slatted decks and the water areas in a swimming pool are considered pervious.)

(6) **Cluster Development.** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential developments as well as single family residential subdivisions and multi-family developments that do not involve the subdivision of land. Single-family residential cluster subdivisions are also regulated by section 152-189, “Single-Family Residential Cluster Development.”

(7) **Development.** Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

(8) **Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this section based on at least one of the following criteria:

- (a) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
- (b) Having an outstanding valid building permit as authorized by the General Statutes; or
- (c) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the General Statutes and section 152-90, “Vested Rights.”

(9) **Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the Moore County Registry prior to the adoption of this section, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this section.

(10) **Hazardous Material.** Any substance listed as such in Superfund Amendments and Reauthorization Act (“SARA”) of 1986 Section 302, “Extremely Hazardous Substances,” Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”); or 33 U.S.C. § 1321 (oil and hazardous substances).

(11) **Major Variance.** A variance from the minimum statewide watershed protection rules that results in the relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option.

(12) **Minor Variance.** A variance from the minimum statewide watershed protection rules that results in the relaxation, by a factor of up to five (5) percent, of any buffer density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low density option.

(13) **Nonresidential Development.** All development other than residential development, agriculture and silviculture.

(14) **Residential Development.** Buildings for residences such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages and the like and their associated outbuildings such as garages, storage buildings, gazebos and such and customary home occupations.

(E) Subdivision Application Review Procedures.

(1) All proposed subdivisions shall be reviewed prior to recording in the Moore County Registry by submitting a vicinity map to the Watershed Administrator to determine whether or not the property is located within the designated Public Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this subsection and may be recorded provided the Watershed Administrator initials the vicinity map.

(2) Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, five copies of the plat and supporting documentation deemed necessary by the Watershed Administrator or the Watershed Review Board.

(3) The Watershed Administrator shall review the completed application and submit recommendations to the Watershed Review Board for further review and final action. The Watershed Review Board shall either approve, approve conditionally or disapprove each application by majority vote of the members present and voting. First consideration of the application shall be at the next regularly scheduled meeting of the Board after the application is submitted. The Board shall take final action within forty-five (45) days of its first consideration. The Watershed Administrator or the Board may provide public agencies an opportunity to review and submit their comments and recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay the Board’s action within the prescribed time limit. Those public agencies may include, but are not limited to, the following:

- (a) The NC DOT district engineer with regard to proposed streets and highways;
- (b) The director of the Moore County Health Department with regard to proposed private water systems or sewer systems normally approved by the Health Department;
- (c) The State Division of Environmental Management with regard to proposed sewer systems normally approved by the Division, engineered stormwater controls or stormwater management in general; or
- (d) Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

(4) If the Planning Board, acting as the Watershed Review Board, approves the application, such approval shall be indicated on copies of the plat by the following certificate and signed by the Chairperson or other authorized member of the Board:

“Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Moore County Registry.

Date

Chairman, Watershed Review Board

NOTICE: This property is located within a Public Water Supply Watershed – development restrictions may apply.”

(5) If the Planning Board disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The subdivider may make changes and submit a revised plan, which shall constitute a separate request for the purpose of review.

(F) Subdivision Standards and Required Improvements.

(1) All lots shall provide adequate building space in accordance with the development standards contained herein. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as “NOT FOR RESIDENTIAL PURPOSES.”

(2) For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(3) Stormwater Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing stormwater drainage. The subdivider shall provide a drainage system that diverts stormwater away from surface waters and incorporates best management practices to minimize water quality impacts. See also article XVI, part 2, “Drainage, Erosion Control and Stormwater Management.”

(4) Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the Land Quality Section, Division of Environmental Management, Fayetteville Regional Office.

(5) Roads Constructed in Critical Areas and Watershed Buffer Areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so as to minimize their impact on water quality.

(G) Establishment of Watershed Area. The purpose of this subsection is to describe the watershed areas herein adopted. For purposes of this section, the town and its extraterritorial jurisdiction are hereby divided into the following area, WS-II-BW, described as follows:

(1) WS-II Watershed Areas-Balance of Watershed. In order to maintain a predominantly undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one (1) dwelling unit per acre. All other residential and non-residential development shall be allowed a maximum of twelve (12) percent built-upon area. In addition, non-residential uses may occupy ten (10) percent of the balance of the watershed, which is outside the critical areas, with a seventy (70) percent built-upon area when approved as a special nonresidential intensity allocation (“SNIA”). The Watershed Administrator, upon review by the

Watershed Review Board, is authorized to approve SNIAs consistent with the provisions of this section. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts. Nondischarging landfills and sludge application sites are allowed, unless these uses are otherwise prohibited by the underlying zoning district.

(a) Allowed uses. The following uses are allowed, unless otherwise prohibited by the underlying zoning district:

- (i) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990;
- (ii) Silviculture, subject to the provisions of the North Carolina Forest Practices Guidelines Related to Water Quality (15A N.C.A.C. 11 .0101);
- (iii) Residential development; and
- (iv) Nonresidential development excluding discharging landfills and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(b) Density and built-upon limits:

- (i) Single family residential development shall not exceed one (1) dwelling unit per acre on a project-by-project basis. No residential lot shall be less than one (1) acre, except within an approved cluster development; and
- (ii) All other residential and nonresidential development shall not exceed twelve (12) percent built-upon area on a project-by-project basis except that up to ten (10) percent of the balance of the watershed may be developed for nonresidential uses to seventy (70) percent built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(H) Cluster Development. The provisions of this subsection shall apply only to developments within the Water Supply Watershed Overlay District. Within the overlay district, single-family residential cluster subdivisions must comply with both this subsection and section 152-189, "Single-Family Residential Cluster Development."

Clustering of development is allowed under the following conditions:

(1) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-

family detached developments as noted above. Built-upon area for the project shall not exceed that allowed under subsection 152-160(F), above;

(2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow; and

(3) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be recorded with the property deeds. Additional requirements for the maintenance of open space are in article XIII of this ordinance.

(I) Buffer Areas Required.

(1) A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minutes) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted, with the approval of the Watershed Administrator.

(2) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.

(J) Watershed Protection Permit.

(1) Except where a single-family residence is constructed on a lot deeded prior to the effective date of this ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued, nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Watershed Administrator. No watershed protection permit shall be issued except in conformity with the provisions of this section.

(2) Watershed protection permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.

(3) A watershed protection permit shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

(K) Public Health Regulations.

(1) Public Health, In General. No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety

and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

(2) Abatement. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality. Where threats to water quality are identified, the town shall take action to restrain, correct or abate the condition and/or violation.

(L) Variances.

(1) The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done.

(2) When an application for a variance from the requirements of this section is submitted, the Watershed Administrator shall notify, in writing, each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board, and a reasonable period to provide such comments shall be given. Such comments shall become a part of the record of proceedings of the Watershed Review Board. The Board of Adjustment for the town shall review all applications for minor variance from these regulations. Variances granted shall not be contrary to the public interests, owing to special conditions, a literal enforcement of this section will result in practical difficulties or unnecessary hardship, so that the spirit of the section shall be observed, public safety and welfare secured and substantial justice done.

(3) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

- (a) A site plan, drawn to a scale of at least one inch to 40 feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; and surface water drainage. The site plan shall be neatly drawn and indicate a north point, name and address of person who prepared the plan, date of the original drawing and an accurate record of any later revisions;
- (b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application; and

(4) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

- (a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five (5) following conditions exist:
 - (i) If he or she complies with the provisions of the ordinance, the applicant can secure no reasonable return from nor make reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the property;
 - (ii) The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship;
 - (iii) The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography, which is different from that of neighboring property;
 - (iv) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance or who purchases the property after the effective date of the ordinance and then comes to the Board for relief; and
 - (v) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.
- (b) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit; and
- (c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety or general welfare.

(5) In granting the variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance. If the variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(6) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(7) A variance issued in accordance with this subsection shall be considered a Watershed Protection Permit and shall expire if a building permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

(8) If the application calls for the granting of a major variance and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

(a) The variance application;

(b) The hearing notices;

(c) The evidence presented;

(d) Motions, offers of proof, objections to evidence and rulings on them;

(e) Proposed findings and exceptions; and

(f) The proposed decision, including all conditions proposed to be added to the permit.

(9) The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (i) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted and (ii) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and

stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance;

- (b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (i) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (ii) the variance, if granted, will result in a serious threat to the water supply, the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed;
- (c) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance; and
- (d) A minor variance is one that does not qualify as a major variance.

§ 152-161. Historic District Regulations.

(A) The Historic Preservation Commission.

(1) There is hereby established an Aberdeen Historic Preservation Commission (the “Commission”) under the authority of G.S. Chpt. 160A, Art. 19, Part 3C.

(2) The Commission shall consist of five (5) members appointed by the Board of Commissioners. All members shall reside within the corporate limits or extraterritorial jurisdiction of the Town of Aberdeen. At the time of initial appointments to the Commission, at least three members must reside within the area identified as the boundaries of the Aberdeen National Register Historic District and one must reside in the Aberdeen extraterritorial jurisdiction. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The Town Board of Commissioners shall use its best efforts to appoint qualified members to the commission. However, if it is not able to get qualified members to serve who reside in the Historic District, it may appoint others who reside within the corporate limits or extraterritorial jurisdiction of the Town of Aberdeen. The Commission may appoint advisory bodies and committees as appropriate.

(3) Members of the Commission shall serve terms of four (4) years. Terms shall be staggered. A member may be reappointed for a second consecutive term, but after two (2) consecutive terms a member shall be ineligible for reappointment until one (1) calendar year has elapsed from the date of the termination of his or her second term.

(4) The powers of the Historic Preservation Commission are as follows:

- (a) Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance;
- (b) Recommend to the Board of Commissioners areas to be designated by ordinance as “historic districts” and individual structures, buildings, sites, areas or objects to be designated by ordinance as “Landmarks”;
- (c) Recommend to the Board of Commissioners that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause;
- (d) Review and act upon proposal for alterations, demolition or new construction within historic districts, or for the alteration or demolition of designated landmarks;
- (e) Conduct an educational program with respect to historic districts and landmarks within its jurisdiction;
- (f) Cooperate with the state, federal and local government in pursuance of the purposes of this ordinance, to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Board of Commissioners, or the Commission when authorized by the Board of Commissioners, may contract with the State or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law;
- (g) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof;
- (h) Prepare and recommend the official adoption of a preservation element as part of the Town of Aberdeen comprehensive plan;
- (i) Make recommendations to the Town Board of Commissioners that the Town acquire by any lawful means fee simple or any lesser interest, including options to purchase properties within established districts or any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

- (j) With the permission of the Board of Commissioners, restore, preserve and operate historic properties; and
- (k) With the permission of the Board of Commissioners, negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonably necessary or appropriate.

(5) Prior to any official action, the Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the appointment of members, terms of office, the election of officers and related matters. A public record shall be kept of the Commission’s resolutions, proceedings and actions. The Commission shall also prepare, adopt and amend as needed principles and guidelines for altering, restoring, moving or demolishing properties designated as landmarks or within historic districts. (See Appendix L, “Design Principles & Guidelines.”) Said guidelines are not considered a part of the Unified Development Ordinance, and as such, do not require Planning Board review or the Board of Commissioners’ approval before being adopted or amended.

(B) Historic Districts.

(1) Historic districts are hereby established as districts, which overlap with other zoning districts. All uses permitted in any such district, whether by right or as a special use, shall be permitted in the historic district.

(2) Historic districts, as provided for in this section, may from time to time be designated, amended or repealed, provided however that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural or cultural importance. Such district must also possess integrity of design, setting, workmanship, materials, feeling and/or association. No district shall be designated, amended or repealed until the following procedures have been carried out:

- (a) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared;
- (b) The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the Town of Aberdeen Board of Commissioners within thirty (30) calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Board of Commissioners of any responsibility for awaiting such analysis, and the Board of Commissioners may at any time thereafter take any necessary action to adopt or amend its zoning ordinance; and

- (c) The Board of Commissioners may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the zoning ordinance.

(3) With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the Town’s jurisdiction, the investigative studies and reports required by subsection 152-161(B)(2)(a) shall be prepared by the Commission and shall be referred to the Planning Board for its review and comment according to the procedures set forth in this ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the North Carolina Department of Cultural Resources in accordance with the provisions of subsection 152-161(B)(2)(b), above. Upon receipt of these reports and recommendations, the Board of Commissioners may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

(C) Historic Landmarks.

(1) Upon complying with the required landmark designation procedures set forth herein, the Board of Commissioners may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

(2) The ordinance designating a landmark shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property with the owner’s consent; otherwise the sign may be placed on a nearby public right-of-way.

(3) No property shall be designated as a landmark until the following steps have been taken:

- (a) As a guide for the identification and evaluation of landmarks, the Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical, architectural, prehistorical and cultural significance within the Town of Aberdeen and its extraterritorial jurisdiction;
- (b) The Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for

designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources;

- (c) The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the Department does not submit its comments to the Commission within thirty (30) days following receipt by the Department of the report, the Commission and the Board of Commissioners shall be relieved of any responsibility to consider such comments;
 - (d) The Commission and the Board of Commissioners shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given;
 - (e) Following the public hearing(s), the Board of Commissioners may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary or reject the proposed ordinance;
 - (f) Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be recorded by the Commission in the Moore County Registry. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Moore County Register of Deeds office and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Town of Aberdeen Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by Moore County for such period as the designation remains in effect; and
 - (g) Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Commission to give notice thereof to the tax supervisor of Moore County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.
- (D) Certificate of Appropriateness Required.

(1) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement or other appurtenant features), nor any above-ground utility structure, nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within the historic district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Commission. Such a certificate is required to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this ordinance. A certificate of appropriateness shall be required whether or not a building or other permit is required.

(2) For purposes of this ordinance, “exterior features” shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. Exterior features may also include historic signs, color, and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, “exterior features” shall be construed to mean the style, material, size and location of all such signs.

(3) The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Aberdeen and all public utilities shall be required to obtain a certificate of appropriateness for construction, alteration, moving or demolition within the historic district or on designated landmarks.

(E) Application for Certificate of Appropriateness.

Applications for a certificate of appropriateness shall be obtained from and when completed, filed with the administrator. The application shall be filed not less than 21 calendar days prior to the next regularly scheduled meeting of the Commission. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction. The names and mailing addresses of property owners filing and/or subject to the application and the addresses of property within 100 feet on all sides of the property which is the subject of the application must also be filed. No application which does not include the aforementioned information will be accepted. The Commission shall adopt, through its rules of procedure, appropriate procedures for pre-application meetings. (Amended 9/12/11)

(F) Action on Application for Certificate of Appropriateness.

(1) The secretary of the Commission shall, by a mailing that is sent not less than seven (7) days prior to the meeting at which the matter is to be heard, provide notification of the application to the owners of property within 100 feet on all sides of the subject property.

(2) Applications for certificates of appropriateness shall be acted upon within ninety (90) days after filing, otherwise the application shall be deemed to be approved and certificate shall be issued. An extension of time may be granted by mutual consent of the Commission and the applicant.

(3) As part of the review procedures, the Commission may view the premises and seek the advice of the North Carolina Department of Cultural Resources or other such expert advice as it may deem necessary under the circumstances. The Commission may hold a public hearing on any application when deemed necessary.

(4) The action on an application shall be approval, approval with conditions or denial, and the decision of the Commission must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the historic district or landmark.

(5) Once issued, a certificate of appropriateness is valid for one (1) year. If after commencement of work authorized by the certificate, the work is not completed within the one (1) year, the certificate shall expire.

(G) Hearings for Certificate of Appropriateness.

(1) Prior to the issuance or denial of a certificate of appropriateness, the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. All meetings of the Commission shall be open to the public in accordance with the North Carolina Open Meetings Law, G.S. Chpt. 143, Article 33C.

(2) The Commission shall have no jurisdiction over interior arrangement, except as provided below, and shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features which would be incongruous with the special character of the historic district or landmark.

(3) The jurisdiction of the Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned landmarks for which consent for interior review has been given by the owners. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been recorded in the Moore County Registry and indexed according to the name of the owner of the property in the grantor and grantee indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

(4) In any action granting or denying a certificate of appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment.

(5) Written notice of the intent to appeal must be sent to the Commission, postmarked within thirty (30) days following the decision. Appeals shall be in the nature of

certiorari. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Moore County.

(6) The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision within thirty (30) days from the date that a notice of appeal by the state is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the State and the Commission.

(H) Administrative Approval of Minor Works.

(1) Notwithstanding subsection 152-161(F), above, upon receipt of a completed application, the Zoning Administrator may issue a certificate of appropriateness for minor works that are consistent with the provisions of subsection 152-161(I), below, and the Design Principles and Guidelines adopted by the Commission. If the Zoning Administrator determines that an applicant seeks a certificate of appropriateness for a minor work as defined herein, he may waive the requirement that the application be submitted twenty-one (21) days prior to the next Commission meeting and the requirement that the application contain the names and addresses of nearby property owners.

(2) Minor works are defined as those exterior changes that do not involve a change to the visual character of the property and do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or district as a whole. The Zoning Administrator shall make the determination as to whether the application involves a minor work as defined herein.

(3) The Zoning Administrator may approve but may not deny an application for a certificate of appropriateness for minor works. If the Zoning Administrator decides not to issue a certificate of appropriateness for a minor work, the application shall be referred to the Commission for action.

(4) A decision by the Zoning Administrator to issue a certificate of appropriateness for minor works may be appealed to the Board of Adjustment in the same manner as other decisions by the Zoning Administrator

(I) Review Criteria.

(1) No certificate of appropriateness shall be granted unless the Commission finds that the application complies with the principles and guidelines adopted by the Commission for review of changes (see Appendix L, "Design Principles & Guidelines"). It is the intent of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or other significant features in the district or of landmarks shall be congruous with the special character of the district or landmark. Notwithstanding the foregoing, the Commission may apply the above-mentioned principles and guidelines in a manner that is consistent with their spirit, rather than literally, when it concludes that the benefit derived from strict adherence to the

principles and guidelines is outweighed by the practical or financial hardships imposed on an applicant by such literal application on non-contributing structures.

(2) In addition to the principles and guidelines, the following features or elements of design shall be considered in reviewing applications for certificates of appropriateness:

- (a) Lot coverage, defined as the percentage of the lot area covered by primary structures;
- (b) Setback, defined as the distance from the lot lines to the building;
- (c) Building height.
- (d) Spacing of buildings, defined as the distance between adjacent buildings;
- (e) Proportion, shape, positioning, location, pattern, sizes and style of all elements of fenestration and entry doors;
- (f) Surface materials and textures;
- (g) Roof shapes, forms and materials;
- (h) Use of regional or local architectural traditions;
- (i) General form and proportion of buildings and structures and the relationship of additions to the main structure;
- (j) Expression of architectural traditions;
- (k) Orientation of the building to the street;
- (l) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures, and maintenance of pedestrian scale;
- (m) Proportion of width to height of the total building façade;
- (n) Archaeological sites and resources associated with standing structures;
- (o) Effect of trees and other landscape elements;
- (p) Major landscaping which would impact known archaeological sites;
- (q) Style, material, size and location of all outdoor advertising signs;

- (r) Appurtenant features and fixtures, such as lighting;
- (s) Structural condition and soundness;
- (t) Walls – physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses;
- (u) Ground cover or paving; and
- (v) Significant landscape, archaeological and natural features.

(3) The United States Secretary of the Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” shall be the sole principle of and guideline used in reviewing applications of the State of North Carolina for certificates of appropriateness.

(J) Certain Changes Not Prohibited.

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, materials or outer appearance thereof; the ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs or traffic signs; or the construction, reconstruction, alteration, restoration or demolition of any such feature which the Building Inspector shall certify is required for the public safety because of an unsafe or dangerous condition. None of the foregoing work shall require a certificate of appropriateness. Nothing herein shall be construed to prevent (1) the maintenance or (2) in the event of an emergency, the immediate restoration of the existing above-ground utility structure without approval by the Commission.

(K) Enforcement and Remedies.

(1) Compliance with the terms of the certificate of appropriateness shall be enforced by the Zoning Administrator. Failure to comply with the certificate shall be a violation of the provisions of this ordinance that pertain to zoning and shall be punishable according to established procedures and penalties for such violations. See Article. VII, “Enforcement and Review.”

(2) In case any building, structure, site, area or object designated as a landmark or within a historic district is about to be demolished, whether as a result of deliberate neglect or otherwise materially altered, remodeled, removed or destroyed except in compliance with this ordinance, the Board of Commissioners, the Commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal to restrain, correct or abate such violation or to prevent any illegal act or conduct with respect to such a building or structure.

(L) Delay in Demolition of Landmarks and Buildings Within Historic Districts.

(1) An application for a certificate of appropriateness authorizing the demolition, removal or destruction of a designated landmark or a building, structure or site within a historic district may not be denied except as provided in subsection 152-161(L)(3), below. However, the effective date of such a certificate may be delayed for up to 365 days from the date of approval. The period of delay shall be reduced by the Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period, the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site. If the Commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

(2) If the Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district and final designation has not been made by the Board of Commissioners, the demolition or destruction of any building, structure or site in the proposed district or on the property of the designated landmark may be delayed by the Commission for up to 180 days or until the Board of Commissions takes final action on the designation, whichever occurs first.

(3) An application for a certificate of appropriateness authorizing the demolition of a building, structure or site determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(M) Prevention of Demolition by Neglect.

(1) Intent. The purpose of this section is to permit the Town of Aberdeen, through the Commission and the Planning and Inspections Department, to protect the town's historic resources by intervening when a contributing property is undergoing demolition by neglect.

(2) Definitions.

(a) **Contributing Property.** Any property, building or structure, or part thereof, that has been designated as "Contributing" by the United States National Park Service through the National Register of Historic Places nomination form submitted by the Town of Aberdeen and certified by the National Park Service on May 16, 1989, and any subsequent amendments thereto.

(b) **Demolition By Neglect.** The deterioration of any contributing property to such an extent that the structural integrity of its architectural details of historic value or other important historic aspects of the property may be lost to current and future generations.

(c) **Owner.** For the purposes of this section, the "owner" shall include the legal owner of record of a property, building or structure, as indicated by the Moore County tax records and the Moore County Registry. The owner shall

also include any other person exercising lawful control over a property, building or structure (for example, a tenant or other occupant) who can be discovered by the Town staff using reasonable diligence.

- (d) **Undue Economic Hardship.** An owner’s financial inability to make the repairs specified in an order issued pursuant to this section. See also subsection 152-161(M)(6).

(3) **Standards.** The owner of a contributing property shall prevent the demolition by neglect of the property, including the preservation of exterior architectural features and the prevention and/or correction of structural defects. The following nonexhaustive list includes examples of defects which may constitute demolition by neglect:

- (a) Deterioration of exterior walls, foundations, or other vertical supports which results in leaning, sagging, splitting, listing, or buckling;
- (b) Deterioration of flooring or floor supports, roofs, or other horizontal members which results in leaning, sagging, splitting, listing, or buckling;
- (c) Deterioration of an external chimney which results in leaning, sagging, splitting, listing, or buckling of the chimney;
- (d) Deterioration or crumbling of exterior plasters or mortars where there is evidence that such condition exposes structural elements to decay;
- (e) Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors or broken or malfunctioning gutters;
- (f) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or excessive weathering due to lack of paint or other protective covering;
- (g) Rotting, holes, and other forms of decay where there is evidence that such conditions have exposed structural elements;
- (h) Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling;
- (i) Deterioration of contributing accessory structures; and
- (j) Overgrown plants/landscaping features which threaten the structural integrity or relevant, significant architectural detail of a structure.

- (4) **Procedure for Enforcement.**

- (a) Any citizen who believes that a contributing property is undergoing demolition by neglect may make a written complaint to the Planning and Inspections Department. The complaint must include a description of the property, including a street address, and the nature of the deterioration claimed to constitute demolition by neglect.
- (b) Upon the receipt of the complaint or where there is otherwise a reasonable basis to believe that demolition by neglect may be occurring, the Planning and Inspections Department staff will conduct a preliminary investigation, and if upon investigation, the staff person determines that a contributing property may be undergoing demolition by neglect, he or she shall provide the owner written notice that the matter will be brought before the Commission at its next regularly scheduled meeting that is at least ten (10) days from the date of the notice.
- (c) The written notice shall include the following:
 - 1. A summary of the defects alleged to constitute demolition by neglect;
 - 2. The date, time and location for when and where the Commission will hear and consider the matter;
 - 3. Any reports prepared by the town staff;
 - 4. A summary description of the demolition by neglect review process;
 - 5. A statement that during the hearing the owner and any other interested persons have the right to be represented by an attorney and present evidence at the hearing, including evidence of any undue economic hardship that repairing the alleged demolition by neglect would cause; and
 - 6. A statement that additional information can be obtained from the Planning and Inspections Department staff during regular business hours.
- (d) The Commission shall conduct a quasi-judicial hearing of the matter, and if it finds that a contributing property is undergoing demolition by neglect, it shall prepare a written order directing the owner to take corrective action within a reasonable period of time. The order shall include findings of fact; conclusions of law; and when possible references to applicable guidelines from the Aberdeen Historic Preservation Commission Design Principles & Guidelines.
- (e) If the Commission issues an order requiring the repair of any demolition by neglect, the owner may file a claim stating that complying with the order

would cause the owner undue economic hardship. A claim of undue economic hardship must be submitted in writing to the Planning and Inspections Department no later than ten (10) days after the date the written order to repair is issued. An applicant must include with a claim all available supporting evidence and a statement of what specific relief is requested (i.e. more time to comply, waiving of certain repair work, etc.). Should additional evidence become available after a claim is made but before the Commission considers the matter, it shall be duty of the owner to provide this additional evidence to the town Planning and Inspections staff immediately. The order to repair the demolition by neglect shall be stayed while the claim of undue economic hardship is pending.

- (f) Using a quasi-judicial hearing and the factors provided in subsection 152-161(M)(6), the Commission shall consider a claim of undue economic hardship at least ten (10) days after the filing of said claim. The order approving or denying some or all requested relief shall be in writing, include relevant findings of fact, and shall specify the relief granted.
- (5) Methods of Service.
- (a) Notices and orders issued by the town in connection with a demolition by neglect complaint shall be served by first class mail upon the owner of record at the most recent mailing address listed in the Moore County tax records.
 - (b) If, after using reasonable diligence, the town Planning and Inspections staff determine that a person other than the legal owner has lawful control and/or custody of the property, building or structure, the staff shall also serve a copy of all notices and orders on said person by first class mail to the person's last known mailing address.
 - (c) The town staff shall also serve a copy of all notices and orders by first class mail upon any lienholders of record and holders of deeds of trust or mortgages of record. Failure to comply with this subsection shall in no way affect the validity of any notice or order that has otherwise been properly served.
- (6) Safeguards from Undue Economic Hardship.
- (a) When a claim of undue economic hardship is made, the owner must provide evidence describing the circumstances of the hardship. The owner shall provide, at a minimum, the following information:
 - 1. The nature of the ownership (individual, business, or nonprofit) of the property, building or structure and a statement of the legal relationship of the owner to the property (i.e. fee simple ownership, tenant, etc.);

2. If the owner has legal title to all or some part of the property, building or structure, the owner shall also state how much was paid for the property, building or structure; the date of acquisition; from whom the property, building or structure was purchased, including a description of the relationship between the owner and the person from whom the property, building or structure was acquired; and whether the property, building or structure or was acquired by other means such as by gift or inheritance;
3. The financial resources of the owner;
4. The estimated cost of repairs necessary to comply with an order to repair. Whenever possible, these estimates should be in the form of written estimates by a contractor, engineer or architect licensed in North Carolina;
5. Assessed value of the land and improvements;
6. Annual debt service (i.e., mortgage payments), if any, for the previous two (2) years; and
7. Any listing of the property for sale or rent, price asked, and offers received, if any.

Additionally for income-producing properties, the owner shall provide the following information:

8. Annual gross income from the property for the previous two (2) years;
 9. Itemized operating and maintenance expenses for the previous two (2) years;
 10. Proof that adequate and competent management procedures have been used for the management of the property, building or structure; and
 11. Annual cash flow for the previous two (2) years.
- (b) The Commission may require any additional evidence that it deems relevant to the questions of whether undue economic hardship exists and the appropriateness of the relief proposed to be granted.

(7) Appeals. Any order to repair and any order pertaining to a claim of undue economic hardship may be appealed by an aggrieved party to the Board of Adjustment within the same time, in the same manner and for the same filing fee as appeals of decisions to grant or deny a certificate of appropriateness. Such appeals shall be in the nature of certiorari and not *de novo*.

See Sec. 152-161(G).

(8) Enforcement. Failure to comply with an order to repair or, if applicable, an order granting relief from undue economic hardship shall be a violation of the Aberdeen Zoning Ordinance and shall be punishable according to established procedures and penalties for such violations. The Town's remedies shall include, but not be limited to, the levying of civil penalties, with each day that violation continues being deemed a separate violation; the seeking of an injunction and/or an order of abatement; and such other equitable relief as may be available.

(9) Other Town Powers. Nothing in this ordinance shall diminish the town's power to declare a property, building or structure to be a public nuisance or otherwise in violation of the North Carolina State Building Code or the Town of Aberdeen Minimum Housing Code.

(Amended 9/12/2011)

§ 152-162. Reserved.

Part 2. Supplementary Use Regulations.

§ 152-163.1. Boat and RV Storage.

Outside rental storage space(s) and/or under-shelter rental storage spaces may only be used for currently licensed and tagged boats, campers, recreational vehicles, motor homes and travel trailers. Any property (or portion thereof) that is set aside for this use must contain a minimum of 80,000 square feet that is reserved exclusively for this use, and all requirements of this ordinance related to both screening and buffering must be met. See Article XIX, “Screening, Trees and Landscaping.”

§ 152-163.1.1. Building Design, Exterior Standards. (Amended 10/26/2015)

In addition to other standards set forth in this chapter, the following exterior design standards shall apply to all industrial, commercial, institutional, multi-family residential and any other development, other than one-family dwellings and two-family dwellings (i.e. two-family conversions (use #1.210), primary residences with accessory apartments (use #1.220), and duplexes (use #1.230):

(A) A minimum of sixty (60) percent of the primary building material for the front façade and a minimum of twenty-five (25) percent of each side façade shall be constructed of glass, wood, brick, stone, split-face block, pre-cast concrete (if the surface is painted, textured or designed to simulate brick, stone or lap siding), vinyl lap siding or architectural concrete (if the surface is designed to simulate brick or stone). This subsection shall not apply to buildings constructed pursuant to section 152-163.13, “Metal Buildings”;

(B) All colors used on any structure shall be neutral or earth tones. Brash, bright, flamboyant or garish colors are not permitted or allowed, except as provided in the historic district pursuant to section 152-161, “Historic District Regulations”; and

(C) All refuse facilities, mechanical equipment and utility equipment shall be located to the rear of the primary building and shielded from any public roadway or adjacent property by means of landscaping or fencing.

§ 152-163.2. Convenience Stores and Gas Stations.

(A) In all convenience and retail-type fuel stations (use 2.113), the primary building shall be constructed with a hip, gable, A-frame or similar style roof.

(B) Convenience stores and gas stations shall be set back a minimum of twenty-five (25) feet from the public right-of-way with no less than a fifteen (15) foot landscaped area, which shall include a semi-opaque screen consisting of trees and shrubs that exceed six (6) feet in height within one (1) year of planting. No structure, part of a structure or vehicular parking shall be permitted within the setback. Should the setback and landscaping requirements of the zoning district in which the convenience store or gas station is located differ from the requirements of this subsection, the more stringent requirements shall control.

(C) Fuel pumps and canopies shall be located to the side or rear of the primary building not to extend past the front plane of the building. If the property is a corner lot, the front property line shall be that portion of the property fronting on a US or NC numbered highway with US numbered highways having precedence.

(D) Fuel pump canopies shall not exceed one half the height of the roof of the primary building it serves, to a maximum height of fifteen (15) feet measured from the ground.

§ 152-163.3. Cemeteries and Crematoriums.

(A) On-site cemeteries are hereby recognized as traditional accessory uses for churches and other religious institutions, and said cemeteries may be located on or adjacent to the property of any church or other religious institution. Off-site cemeteries for churches and other religious institutions, however, shall be subject to all zoning restrictions set forth in this chapter.

(B) No crematorium may be located less than one (1) mile from another crematorium or less than one-quarter (1/4) mile from any property zoned residential or office and institutional.

§ 152-163.4. Dish Antennas.

(A) Permitting use. Dish antennas are permitted as accessory uses in all zoning districts, subject to the regulations of this section. For the purposes of this section, lots located within a planned unit development shall be considered residential if the primary use of the lot is residential, and nonresidential if the primary use of the lot is nonresidential.

(B) General requirements.

(1) A building permit is required to install, move or substantially construct or reconstruct a dish antenna.

(2) In addition to the requirements of this section, a dish antenna must also be installed to comply with the manufacturer's specifications.

(3) In residential zoning districts, dish antennas that are less than thirty (30) inches in height and less than twenty-four inches (24) inches in width may be installed on roofs or other parts of the principal structure.

(4) In commercial, office and institutional and industrial zoning districts, dish antennas may either be installed on the ground or on the roof of the building. If installed on the roof, the dish shall not be larger than twelve (12) feet in diameter, and the dish shall not be used for advertising purposes.

(5) If a dish antenna is repainted, the only permissible colors are the original color used by the manufacturer, off-white, pastel beige, pastel gray or pastel gray-green. The paint

must have a dull (non-glossy) finish and no patterns, lettering or numerals shall be permitted on the dish surface.

(C) Location in yards.

(1) In all zoning districts, dish antennas less than thirty (30) inches in height and less than twenty-four (24) inches in width may be installed in any side or rear yard. Larger dishes shall be installed in accordance with subsections (B)(4) and (C)(2) of this section.

(2) In commercial and industrial zoning districts, a dealer selling dish antennas may have a maximum of one such antenna installed in the front or side yard for display purposes providing all other requirements of this section are met. If a dealer displays a dish antenna in the front or side yard, his permissible sign area shall be reduced by one half.

(3) No dish antenna may be installed in any public right-of-way or in any drainage or utility easement.

(D) Minimum setback.

(1) The setback of a dish antenna shall be measured from the center of the mounting post supporting the antenna.

(2) The minimum required setback for dish antennas, from the side lot line, shall be the same as for the principal building except on corner lots. In the case of corner lots, the minimum required setback for the side(s) abutting the street shall be the same as the required front setback along that street.

(3) The minimum required setback for dish antennas from the rear lot line shall be six (6) feet or the same as accessory buildings, whichever is greater, but in no case shall any part of the antenna come closer than one (1) foot to the property line.

(4) In districts where there are no side or rear yard setback requirements, a minimum setback of six (6) feet from the side and rear lot lines shall be required of dish antennas, but in no case shall any part of the antenna come closer than one (1) foot to the property line.

(5) In all cases, no dish antenna shall be located within fifteen (15) feet of any street right-of-way.

(6) No dish antenna shall be located within ten (10) feet of a principal building, except as necessary to meet the requirements of subsection (D)(5) of this section.

(7) In commercial, office and institutional and industrial zoning districts, dishes shall be set back from the front and sides of the building at least the same distance as one and one half (1 ½) times the diameter of the dish.

(8) There are no setback requirements between a dish antenna and any other accessory structure.

(E) Maximum height.

(1) In all residential zoning districts, the maximum height of dish antennas shall be twenty (20) feet or the height of the principal building, whichever is less.

(2) In commercial, office and institutional and industrial zoning districts, the maximum height of dish antennas installed on the ground shall be thirty (30) feet. Dish antennas mounted on the roof of a building shall not project more than ten (10) feet above the height of the building or more than one-third (1/3) the total height of the building, whichever is less.

(F) Buffering and screening.

(1) In all residential zoning districts, dish antennas shall be surrounded on all sides with any one or a combination of evergreen vegetation; topographic features (for example a hillside); landscaped earthen berm; or architectural features, such as fences or buildings. This screen shall be tall enough and dense enough that the lower two-thirds (2/3) of the dish area is not visible from any public street or from six (6) feet above ground level on surrounding residential properties. If evergreen vegetation is used, a species and size shall be planted which can reasonably be expected to screen the required area within two (2) years of planting. Any dead screening vegetation must be replaced.

(2) In commercial, office and institutional and industrial zoning districts, dish antennas must be screened from the view of surrounding residential properties and primarily residential public streets. The screening requirements as to materials and height shall be the same as in subsection (F)(1) above.

§ 152-163.4.1. Display of Goods Outside a Fully Enclosed Building.

Any retail, wholesale or rental use that involves that the display of goods outside a fully enclosed building (Table of Permissible Uses # 2.200) shall store the goods inside a fully enclosed structure when the use is not open for business.

§ 152-163.5. Duplexes.

Repealed 10/26/2015

§ 152-163.6. Fences and Walls.

See also subsection 152-186(A)(3)(b).

(A) A fence, wall or shrubbery screen (collectively referred to in this section as “fences”) may be located in any yard for the purposes of privacy and/or security, provided the requirements of this section are met. For the purposes of this section, lots located within a planned development

shall be considered residential if the primary use of the lot is residential, and nonresidential if the primary use of the lot is nonresidential.

(B) The following types of fences are allowed:

- (1) Open picket fence,
- (2) Post and rail fence,
- (3) Solid plank fence,
- (4) Wrought iron fence,
- (5) Brick or stone (solid or pierced) fence, and

(6) Open wire fencing (such as hurricane and chain link). Except as otherwise provided by this section, open wire fencing in a front yard or adjacent to a street in a residential zoning district shall be screened from view from nearby public streets using a planted hedge.

(C) Restrictions on placement and dimensions of fences.

(1) Solid plank, brick or stone fences that project into front yards may not exceed four (4) feet in height.

(2) Solid plank, brick or stone fences in side or rear yards may not exceed six (6) feet in height.

(3) Open picket, post and rail, wrought iron or open wire fences in front, side or rear yards may not exceed six (6) feet in height.

(4) Notwithstanding the provisions of this section, a solid fence up to eight (8) feet in height shall be permitted between any residential use and any business, commercial or industrial use.

(5) Notwithstanding the provisions of subsections (C)(3) and (4) of this section, an open wire fence up to ten (10) feet in height shall be permitted for safety reasons around towers, electrical substations, and similar uses. At a minimum, the bottom four (4) feet of such fencing shall be screened from view from nearby public streets using a planted hedge.

(6) No fence, post or required hedge shall be installed so as to obstruct visibility at a street intersection or driveway entrance. See also subsection 152-186(A)(3), "Building Setback Requirements."

(7) A fence used primarily for recreational purposes (for example golf driving ranges) may exceed the height limits established in this section, but a special use permit will be required for any such fence.

(D) No open wire fencing of a type that could inflict injury from casual contact (such as barbed wire fencing) is permitted below a height of seven (7) feet in any zoning district.

(E) The height of a fence and vegetative screen shall be measured from the average level of the ground adjacent to the fence or screening.

(F) Other Requirements.

(1) Fences must be erected with the posts, supports, stringers and all unfinished materials facing the owner's property and residence or other primary structure.

(2) A certificate of zoning compliance is required before erecting a fence.

(3) A fence must be completed within ninety (90) days of the issuance of the certificate of zoning compliance.

§ 152-163.7. Forestry Activities.

No forestry activity, as that term is used in G.S. § 160A-458.5, shall be regulated by this ordinance except in compliance with G.S. § 160A-458.5. Pursuant to G.S. § 160A-458.5(b), the town shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either:

(A) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes; or

(B) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

To the extent any provision of this ordinance conflicts with G.S. § 160A-458.5, that portion of the ordinance shall be deemed repealed.

§ 152-163.8. Golf Courses.

(A) A minimum land area of 140 acres is required for a regulation eighteen (18) hole golf course, which includes any ancillary uses including but not limited to the following: driving ranges, practice areas, parking, the clubhouse, offices, the pro shop, maintenance buildings, on-course rest rooms, half-way houses or similar uses or structures. Golf courses do not include miniature golf facilities, par-three golf courses or driving ranges that are not directly associated with an eighteen-hole golf course.

(B) If a developer elects to begin construction of any part of a golf course, prior to receiving site plan approval, the developer shall submit a conceptual or sketch plan of the planned layout of the proposed golf course to the Town Land Use Administrator. The developer may then obtain a temporary zoning certificate of occupancy. The developer must obtain site plan approval

for the golf course and all ancillary uses within six (6) months of the date of the issuance of such temporary zoning certificate of occupancy, or the temporary zoning certificate of occupancy shall be null and void.

§ 152-163.9. Group Homes.

(A) No group home may be located within a one-half mile radius of any other existing group home.

(B) The structure of a group home may be no more than two stories high, and no aged or physically disabled person may reside on a second floor without provision for two direct exterior ground-level accesses to the upper story.

See also section 152-163.1.1, “Building Design, Exterior Standards.”

§ 152-163.9.1. Home Daycares.

(A) In addition to the other standards set forth in this chapter, each home daycare must meet the following requirements:

(1) A home daycare may have no more than nine (9) children. Of the children present at any one time, no more five (5) shall be preschool-aged, including the operator's own preschool-age children;

(2) The maximum hours of operation are 7:00 am to 6:00 pm, Monday through Friday;

(3) The daycare shall include a fenced-in outdoor play area that complies with State regulations;

(4) No signage advertising the home daycare is allowed;

(5) The building in which the home daycare is located may not be located closer than 500 feet to any other building housing another home daycare; and

(6) The home daycare must be licensed through the NC Department of Health and Human Services.

(B) Violations of subsections (A)(2) and (4) of this section are violations of this chapter, and the town may impose civil penalties and/or seek other remedies, as provided in this chapter, to correct violations of those subsections. Subsections (A)(1), (3) and (5) of this section are established by State law, and the violations of these subsections may be punished as provided by State law. No violation of subsections (A)(1), (3) or (5) shall subject the offending party to civil penalties or other remedies established by this chapter.

§ 152-163.10. Housing Facility for Older Persons (“HFOP”).

(A) Housing Facilities for Older Persons (HFOP) are permitted as conditional uses in the B-3 and R6-10 zoning districts subject to the multi-family requirements of this ordinance.

(B) Federal Restrictions. Prior to issuance of an application for conditional use permit approval authorizing construction or establishment of an HFOP, the applicant shall provide to the Land Use Administrator:

- (1) A copy of the policies and procedures required by 24 C.F.R. § 100.306; and
- (2) A copy of the verification of occupancy required by 24 C.F.R. § 100.307.

(C) An HFOP approved as a conditional use shall comply with the following:

- (1) The building shall not exceed two (2) stories in height; and
- (2) The dwelling unit density may be up to thirteen (13) dwelling units per acre.

See also section 152-163.1.1, “Building Design, Exterior Standards.”

§ 152-163.11. Land Clearing and Inert Debris Landfills.

(A) Land Clearing and Inert Debris (“LCID”) landfills must be at least two (2) acres in area and no larger than thirty (30) acres.

(B) There shall be only one (1) access way on the site, and it shall serve as both the entrance and the exit. The access way shall not be wider than thirty (30) feet. The first thirty (30) feet of the access way shall be constructed of a concrete or asphalt surface, and the remaining driveway shall consist of and be maintained with gravel.

(C) A vegetated buffer or buffer combined with a berm shall be planted around the entire perimeter of the landfill and shall be a minimum of thirty (30) feet wide.

§ 152-163.12. Manufactured Home Parks.

(A) Establishment of the MH-C district.

(1) Manufactured home parks shall be located in the MH-C zoning district, which is a parallel conditional zoning district. Property may be rezoned to MH-C only in response to a petition by the owners of all the property to be included in the district.

(2) Approval of an MH-C zoning district shall constitute approval of a site specific development plan for purposes of establishing vested rights as permitted by this ordinance. See section 152-90, “Vested Rights.”

(3) Work on a manufactured home park must begin within one (1) year of the establishment of the MH-C zoning district. If all work authorized under the MH-C zoning district

ceases for a continuous period of one (1) year after work has commenced, then the zoning of the tract shall automatically revert back to the zoning in effect at the time the MH-C zoning district was established. Upon the request of the developer submitted prior to expiration of the time to begin construction, the Board of Commissioners may grant one-year extensions on the time to begin construction.

(4) Modifications to the MH-C zoning district may be permitted in accordance with section 152-333, “Modification of Approval.”

(B) Area. The area of the manufactured home park shall be a minimum of two (2) acres, and the park shall have a minimum of five (5) manufactured home spaces available at first occupancy.

(C) Utilities. The manufactured home park and all occupied units located in it must be connected to the Aberdeen municipal water and sewerage systems or other systems approved by the Moore County Health Department or the appropriate North Carolina state agencies.

(D) Access and Parking. Paved, privately maintained roadways must be provided for access to individual units and other facilities located within the park. Required parking spaces are not required to be paved.

(E) Permitted Uses, Building Heights and Setbacks. Service buildings, recreation buildings and other areas or structures providing laundry, sanitation and managerial facilities are permitted, subject to approval of the Board of Commissioners, and such approval shall not be unreasonably withheld. Such facilities shall serve only the park in which it is located. No such facility shall have direct access to a public street, but shall instead be served by the privately maintained roadway. All buildings and structures, other than manufactured homes, shall meet the front, side and rear yard setbacks set forth in section 152-181, “Table of Density and Dimensional Regulations.” All buildings, including manufactured homes, shall meet the building height limitations set forth in section 152-181.

(F) Buffers. A densely planted buffer strip of continuous evergreen composition not less than six (6) feet in height or less than fifteen (15) feet in width shall be provided along all rear and side property lines of the park. Except as provided by this subsection, manufactured home parks shall be subject to the requirements of article XIX, “Screening, Landscaping and Trees,” and shall be considered a “development” for the purposes of complying with that article.

(G) Dimensional Requirements. The dimensional requirements of section 152-181, “Table of Density and Dimensional Regulations,” shall not apply to manufactured home spaces and manufactured homes. Instead such lots and units shall satisfy the following requirements:

(1) Space Size. Each manufactured home space shall be a minimum of 6,000 square feet. For the purposes of this subsection, a “space” is the land area allocated to a single manufactured home, irrespective of whether or not the manufactured home park has been subdivided into individual lots;

(2) Access. Each space shall have access to an interior roadway with a paved width of at least eighteen (18) feet. No space shall have direct access to a public street;

(3) Clearance. Each space shall be designed so that at least a thirty (30) foot clearance will be maintained between units and other structures within the park;

(4) Unit Setbacks. Manufactured home units shall be located so that a ten (10) foot setback is maintained from the centerline of the private interior roadway to which the unit has access. Further, no manufactured home unit shall be located closer than twenty-five (25) feet to the front, side or rear property lines;

(5) Utilities. Each space shall have hook-up facilities for water, sewer, electricity and telephone services. All occupied manufactured home units shall have and use approved sanitary facilities within the manufactured home unit; and

(6) Parking. Each manufactured home space shall have at least two (2) parking spaces, and at least one (1) of these two (2) spaces shall be located on or adjacent to the manufactured home space.

(H) Recreational Areas and Open Space.

(1) All manufactured home parks that contain at least twenty (20) manufactured home spaces shall include a recreation area that is not less than eight (8) percent of the total park area. The owner of the park, a homeowners association or similar entity shall be responsible for the continued maintenance of this area. The minimum size of any recreation area shall be 2,500 square feet. Lakes, ponds, rivers, streams, swamps and marsh lands shall not be considered as meeting (in part or whole) the recreation area requirements of this subsection.

(2) All manufactured home parks shall provide open space in accordance with article XIII, "Open Space."

(I) Tie Down and Anchoring Requirements. Manufactured homes shall be securely anchored to the ground by means of a tie-down system, and all such tie-down and anchoring systems shall comply with the "State of North Carolina Regulations for Manufactured Homes" as established by the North Carolina Department of Insurance.

(J) Storage Buildings; Storage of Possessions.

(1) Each manufactured home space may be equipped with a storage building not to exceed ten (10) feet by ten (10) feet, provided that all such buildings are located adjacent to the rear lot line.

(2) Storage of possessions and equipment in the area beneath the manufactured home is prohibited.

(K) Responsibilities and Duties of Park Operators.

(1) **Manufactured Home Park Maintenance.** Manufactured home park operators shall be required to provide adequate supervision to maintain the park in compliance with the requirements of this chapter. Further, any manufactured home park operator shall keep all park-owned facilities, improvements, equipment and all common areas in good repair and maintained in such a manner as to prevent the accumulation or storage of materials which would constitute a fire hazard or would be conducive to insect or rodent breeding and harborage.

(2) **Placement and Anchoring.** Operators shall be required to supervise the placement of all manufactured homes to ensure that they are properly anchored and attached to utilities, and operators shall be liable under this chapter for the improper placement and/or anchoring and tying down of any manufactured home within the park.

(3) **Assist County Tax Supervision.** Operators shall be required to comply with G.S. § 105-316(a)(1), which requires that as of January 1 of each year each manufactured home park operator that rents lots for six (6) or more manufactured homes furnish the County Tax Supervisor the name(s) of the owner of and a description of each manufactured home located in the park.

(4) **Solid Waste Disposal.** The park operator shall operate or provide for the operation of a solid waste disposal system, including providing park tenants with appropriate containers.

(L) **Approval of Manufactured Home Parks; Procedure.**

(1) Prior to the construction of a new manufactured home park, the developer shall make application to the Land Use Administrator for a conditional rezoning to the MH-C zoning district. The application shall be accompanied by three (3) copies of a site plan that, in addition to the meeting the requirements of section 152-328, "Plans and Other Information to Accompany Petition," shall include the following:

- (a) Land contours with vertical intervals of not less than two (2) feet for all manufactured home parks with twenty-five (25) manufactured home spaces or more;
- (b) Onsite water courses, including perennial, intermittent and ephemeral streams;
- (c) A depiction of streets and private roadways, traffic circulation, driveways, open space, recreational facilities areas, parking spaces, service buildings, active recreational facilities and areas, and the number and location of all manufactured home lots;
- (d) The existing and proposed utility system for surface water drainage, streetlights, water supply and solid waste and sewage disposal facilities;
- (e) If the park is not to be connected to the Aberdeen municipal water system, a

certification of approval for the proposed water supply system from the Moore County Health Department or the appropriate North Carolina state agencies;

- (f) If the park is not to be connected to the Aberdeen municipal sewage system, a certification of approval for the proposed sewage supply system (including septic systems) from the Moore County Health Department or the appropriate North Carolina state agencies; and
- (g) Certification of approval of the proposed solid waste storage, collection and disposal plans by the Moore County Health Department.

(2) The application shall be reviewed in accordance with article XX of this ordinance, and upon approval of the rezoning request, the developer shall be authorized to begin construction of the manufactured home park. One copy of the approved site plan shall be given to the developer.

(3) The developer or manufactured home park operator shall notify the Land Use Administrator of the date on which the manufactured home park begins operations.

(M) **Renewal of Authorization to Operate.** Two (2) years after operations begin and every two (2) years thereafter, the manufactured home park operator shall submit to the Land Use Administrator information sufficient to demonstrate that the manufactured home park continues to comply with all requirements of this chapter, the zoning district and the approved site plan. The Land Use Administrator shall determine which materials must be submitted, and the Land Use Administrator shall provide the park operator his or her determination in writing.

(N) **Nonconforming Manufactured Home Parks.** Manufactured home parks existing prior to the adoption of this ordinance shall be required to come into compliance only with subsections (C), (J), and (K) of this section. Such parks must come into compliance within two (2) years after the adoption of this chapter. For the purposes of subsection (M) above, the operator of a lawful nonconforming park need only show continued compliance with subsections (C), (J) and (K) of this section to obtain a renewal of its authorization to operate.

§ 152-163.13. Metal Buildings.

(A) Metal buildings as new principal structures are prohibited within the Aberdeen Historic District.

(B) Metal buildings may be used in all other zoning districts subject to the following requirements:

(1) When visible from roadways, easements or any public viewing area such as park lands, 100% of the primary building material of the façade (whether front, side or rear) shall be constructed of or covered with glass, wood, brick, stone, split-face block, pre-cast concrete (if the

surface is painted, textured or designed to simulate brick, stone or lap siding), vinyl or fiber cement lap siding or architectural concrete (if the surface is designed to simulate brick or stone);

(2) A minimum of fifty (50) percent of each side façade shall be constructed of or covered with glass, wood, brick, stone, split-face block, pre-cast concrete (if the surface is painted, textured or designed to simulate brick, stone or lap siding), vinyl or fiber cement lap siding or architectural concrete (if the surface is designed to simulate brick or stone). These materials shall extend horizontally throughout the side façade and shall not be used to solely frame the edges;

(3) For industrial applications, when approved by the Board of Commissioners upon the determination that the use of any other material would be deemed unsafe or impractical;

(4) In commercially zoned districts when all corrugations are less than 5/16th of an inch in depth and there are no exposed rivets; and

(5) Metal accessory buildings of 100 square feet or less are allowed in all zoning districts, including the Aberdeen Historic District.

(6) This subsection shall not apply to one-family dwellings and two-family dwellings (i.e. two-family conversions (use #1.210), primary residences with accessory apartments (use #1.220), and duplexes (use #1.230)), except that metal accessory buildings shall be permitted as provided herein. *(Amended 10/26/2015)*

§ 152.163.13.1. Mixed Use Developments as a Separate Use Abolished.

Aberdeen Zoning Ordinance § 155.090, “Mixed Use Developments,” is repealed, effective February 9, 2009. Any mixed use development approved pursuant to Aberdeen Zoning Ordinance § 155.090 shall be deemed a lawful nonconforming use and shall continue to be subject to the requirements of the conditional use permit issued for the development. See also, section 152-139.3, “Mixed Use Conditional Overlay District Abolished.”

§ 152-163.14. Multi-Family Development.

(A) Permitted Zoning Districts. Multi-family development shall be permitted with a conditional use permit in the B-3 and R6-10 zoning districts and shall be prohibited in all other districts.

(B) Minimum Lot Size. The following minimum lot size requirements shall apply:

Multi-Family Development Minimum Lot Size Requirements		
	R6-10	B-3
Lots Served by Town Water & Sewer		
First Dwelling Unit	6,000 sq. ft.	10,000 sq. ft.
Additional Dwelling Units	5,365 sq. ft. for each	4,795 sq. ft. for each

	additional dwelling unit, up to a <u>maximum</u> of 8 total dwelling units per acre	additional dwelling unit, up to a <u>maximum</u> of 8 total dwelling units per acre
Lots <u>Not</u> Served by Town Water & Sewer		
First Dwelling Unit	6,000 sq. ft.	10,000 sq. ft.
Additional Dwelling Units	5,365 sq. ft. for each additional dwelling unit, up to a <u>maximum</u> of 8 total dwelling units per acre	4,795 sq. ft. for each additional dwelling unit, up to a <u>maximum</u> of 8 total dwelling units per acre
Minimum Total Lot Area (square footage used to meet the per unit lot area requirements may also be used to meet this requirement).	20,000 sq. ft.	20,000 sq. ft.

(C) Any point of a property line of a lot containing a multi-family development with more than eight (8) multi-family dwelling units and approved after the effective date of this ordinance must be located at least 500 linear feet from the closest point of the property line of any other parcel containing a multi-family development with more than eight (8) multi-family dwelling units which were approved after the effective date of this ordinance. This spacing requirement shall not prohibit the location of new multi-family development within 500 feet of the property line of multi-family development that was approved prior to or as of the date of this ordinance.

(D) Landscaping. The following landscaping requirements shall apply in addition to existing landscaping requirements found elsewhere in this chapter. Where these requirements conflict with existing ordinances, the more stringent provisions shall control.

(1) A semi-opaque screen is required along the perimeter of any multi-family development located adjacent to any residentially used or zoned property. For the purposes of this subsection, properties are adjacent to each other if they are only separated by a public or private right-of-way. Such screens shall be at least thirty (30) feet wide. This minimum screen requirement shall be reduced to fifteen (15) feet when a public right-of-way separates a multi-family development from a residentially used or zoned property.

(2) The screen width may be reduced by an additional twenty-five (25) percent if the site plan indicates berming, alternate landscaping, walls, opaque fencing in combination with landscaping or topographic features which will, in the opinion of the Land Use Administrator, achieve the intent of the screening requirements of this chapter and result in equal or better performance. Berms may not have a slope steeper than three (3) horizontal feet to one (1) vertical foot and must have a crown width of at least two (2) feet.

(3) Existing vegetation shall be used to meet all or part of the screening

requirements wherever possible, if it provides the required level of obscenity. Vegetation to be saved shall be identified on site plans, along with protection measures to be used during grading and construction.

(4) Wherever possible, drought resistant vegetation shall be used in landscaping and in meeting shading requirements.

(5) Up to one-half (½) of the required screening area may be utilized to satisfy applicable required front, rear or side yard setbacks. For example, up to fifteen (15) feet of the required thirty (30) foot screen may be located in the side or rear yard setback. The Town of Aberdeen Planning Department will maintain a list of acceptable plant and tree types that have been approved by the Town of Aberdeen Board of Commissioners for use in landscaping

(6) Parking Lot Landscaping:

(a) Applicability. Shading is required for any multifamily parking areas (excluding driveways or garages). Canopy trees, as identified on the approved plant list, shall provide shade for a minimum of twenty-five (25) percent of a parking lot. Canopy or understory trees may be used, or upon approval of the Administrator, existing vegetation may be used to assist in satisfying the shading requirements.

(b) Calculation of Shaded Area.

(1) The following table provides the calculations for two (2) sizes of trees as required to create the minimum shade coverage:

Parking Lot Shading	
Category	Standard
Canopy trees	1,200 square feet per one tree
Understory trees	550 square feet per one tree

(2) The minimum shade coverage shall be determined in accordance with the following formula: $0.25 \times B = C$.

Note: The shade requirement shall be based on the nearest tree requirement. In the example below, an additional tree will not be required to meet the full 3,000 foot required shade area.

0.25 = twenty-five (25) percent, which is the minimum percentage of the site requiring coverage.

B = square feet of parking lot area.

C = total number of square feet required to be shaded.

Example: 3,000 square feet of a 12,000 square foot parking lot must be

shaded ($0.25 \times 12,000 = 3,000$), which can be accomplished using 2 large trees (2 large trees = 2,400 square feet) and one small tree (1 small tree = 550 square feet, which can be rounded up to 600 square feet).

(c) Design. Trees shall be planted within an island at least nine (9) feet wide by eighteen (18) feet deep when the tree location is surrounded on three (3) sides by the parking lot vehicular use area.

(7) All proposed screening and landscaping shall be delineated on the required site plan.

(8) Drought resistant vegetation is encouraged.

(E) Parking. Off-street parking shall be located between the principal building and the rear lot line, an alley or interior to a block. Parking shall also be provided in accordance with article XVIII, "Parking."

(F) Site Design Requirements for Multifamily Developments.

(1) The site plan must be designed to give adequate consideration to the following factors:

(a) The size and shape of the tract;

(b) The topography and necessary grading;

(c) The reasonable preservation of the natural features of the land and vegetation;

(d) The size of the development and its relationship with adjacent and nearby land uses;

(e) Safe and convenient pedestrian access and connections for all ages and abilities; and

(f) Multi-family residential units and ingress/egress to the multi-family development shall not be located within a Special Flood Hazard Area (zone AE or AE floodway) on the adopted Flood Insurance Rate Map.

(2) The site plan must provide plans for stormwater management in compliance with section 152-263 of this ordinance.

(3) Developments with forty (40) or more dwelling units shall have a point of ingress and egress directly onto an adjacent major or minor thoroughfare as shown on the thoroughfare plan. Access by a connecting street is not acceptable. Developments with eighty (80) or more dwelling units shall have at least two direct points of direct ingress and egress onto a major

or minor thoroughfare as shown on the thoroughfare plan. See also section 152-163.21, “Traffic Impact Analysis.”

(4) Developments with eighty (80) or more dwelling units shall be provided with a divided ingress-egress driveway with a landscaped median for all entrances from public streets.

(5) Any proposed ingress and egress points shall be located and designed so as to not result in a substantial amount of vehicular traffic to be channeled onto adjacent non-thoroughfare local streets.

(6) Sidewalks and/or paths shall be constructed within the development to link the interior of the development with residential buildings within the development and to other destinations such as, but not limited to, adjoining streets, mailboxes, trash disposal areas, on-site amenity areas and the like. These sidewalks shall be constructed in accordance with the Town of Aberdeen standards for sidewalk construction. These sidewalks shall also be constructed as indicated by and in accordance with any applicable adopted plans, including, but not limited to, pedestrian plans and the comprehensive plan.

(7) The minimum spacing between multi-family buildings within a development shall be twenty (20) feet, plus one (1) foot for each one (1) foot of height in excess of thirty (30) feet, or as required/recommended by the Town of Aberdeen Fire Chief and the State Fire Code.

(8) In order to provide an interesting and aesthetically attractive development, the following standards shall apply:

(a) With the exceptions of buildings that front the same public street, buildings shall be arranged in patterns that are not strictly linear. Exceptions shall be allowed for buildings that define common space such as a courtyard or green.

(b) Building entryways shall face a street, sidewalk or common area. Buildings shall not face the rear of other buildings within the same development.

(9) The maximum allowable density for any multi-family development shall be eight (8) units per acre.

(10) For all multi-family developments not specifically developed for the elderly and containing more than sixteen (16) dwelling units, a shelter shall be constructed at a location where a public school bus may pick up and/or drop off children riding county school buses.

(11) All solid waste container sites must be shown on the site plan and screened with a continuous six (6) foot high opaque vegetative, wood or masonry screen. Container pads shall be graded and constructed with a reverse crown designed to shed stormwater. Gates and doors are required on all solid waste screens and must be of a substantial and durable material. Support posts, gate frames, hinges and latches should be of a sufficient size and strength to allow the gates to function without sagging or becoming a visual eyesore.

(12) Multi-family site plans shall include the designation of bike paths or lanes when such facilities are indicated on an approved Aberdeen bikeway plan and designated in the Town of Aberdeen Comprehensive Plan.

(G) Open Space and Recreational Facilities

(1) Common Open Space Requirements. Open space areas shall be provided for all multifamily developments with five (5) or more dwelling units (including the multi-family portions of developments with both single-family and multi-family dwelling units). Upon approval of the Board of Commissioners, open space areas may be dedicated to the Town of Aberdeen. A minimum play or open space area of 435 square feet per dwelling unit having a minimum width of forty (40) feet at its narrowest dimension or a minimum radius of twenty-six (26) feet shall be provided. The spatial distribution and number of individual open space areas shall be shown on the approved site plan in consideration of the spatial arrangement of the dwelling units, topography, and other physical features. Swimming pools and their accessory structures shall not be used to satisfy the open space requirement. Additionally, open space provided to satisfy the requirements of this subsection shall meet the requirements for “usable open space” set forth in subsections 152-198(C) and (D).

(2) A survey, site development plan, or plat depicting all open space shown on the site development plan for a multi-family development shall be recorded in the Moore County Register of Deeds Office prior to issuance of certificates of occupancy for multi-family dwelling units.

(3) The Administrator may waive up to fifty (50) percent of the open space requirement if all units within the development are located within 1,000 feet of a public park as measured along a public sidewalk. Open space provided pursuant to this requirement shall be accessible to all residents of the development.

(4) Private Open Space. Each dwelling unit shall have appurtenant private open space, such as a private porch, deck, balcony, patio, atrium, or other outdoor private area. The private open space shall be contiguous with the unit in a single area. The private open space shall have the dimensions as described in the following table:

Private Open Space			
# of Dwelling Units in MF Bldg.	Min. Area (% of Dwelling Unit Floor Area)	Min. Area (Square Feet)	Min. Depth (Feet)
4 to 6	15%	90	6
6 to 20	10%	60	6
21 or more	10%	48	6

(5) Recreational facilities shall be provided in accordance with section 152-199, “Active Recreation Facilities.”

(H) Outdoor Lighting. All multi-family buildings and projects, including outparcels, shall be designed to provide safe, convenient, and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be integrated and designed so as to enhance the visual impact of the project on the community and, where practicable, should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes onsite lighting needs without intrusion on adjoining properties.

(1) Lighting Plan. A site lighting plan shall be required as part of the application and site plan review for all multi-family developments exceeding four (4) dwelling units per multi-family development.

(2) Site Lighting Design Requirements. Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This can be accomplished through style, material, or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

(a) Fixture (Luminaire). The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from any street right-of-way or adjoining properties. Overhead lighting fixtures shall be designed to prevent light from emitting upwards toward the sky.

Under-canopy lighting fixtures should be completely recessed within the canopy.

(b) Fixture Height. Lighting fixtures shall be a maximum of thirty (30) feet in height within the parking lot and shall be a maximum of fifteen (15) feet in height within nonvehicular pedestrian areas. Pedestrian scale lighting at a height not exceeding twelve (12) feet is encouraged. All light fixtures located within fifty (50) feet of any adjacent residential use or residentially zoned property boundary shall not exceed fifteen (15) feet in height.

(c) Light Source (Lamp). Incandescent, florescent, metal halide, or color corrected high-pressure sodium are preferred. The Administrator shall have the authority to approve other lamp types (including light emitting diodes [LEDS] and fiber optics) provided the color emitted is similar to the preferred types. Noncolor corrected high pressure sodium lamps are prohibited.

The same light source type must be used for the same or similar types of lighting on any one site throughout any development.

(d) Mounting. Fixtures shall be mounted in such a manner that the cone of light is contained onsite and does not cross any property line of the site.

(e) Limit Lighting to Periods of Activity. Where practicable, the use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Administrator to conserve energy, provide safety, and promote compatibility between different land uses.

(3) Illumination Levels. All site lighting shall be designed so that the level of illumination as measured in foot candles (fc) at any one point meets the standards in the table below, with minimum and maximum levels measured on the pavement within the lighted area and average level (the overall generalized ambient light level) measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination.

Light Level (Foot Candles)			
Type of Lighting	Minimum	Average	Maximum
Multi-Family Parking Lot	0.2	1.0	8.0
Multi-Family Entrances	1.0	5.0	15.0
Storage Area (Security Lighting)	0.2	1.0	10.0
Walkways, Landscape, or Decorative Lighting	0.2	0.8	5.0

*The maximum level of illumination at the outer perimeter of the site or project shall be 0.5 foot-candles when abutting a residential zoning district and 5.0 footcandles when abutting all other districts and/or streets.

(4) Excessive Illumination. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this subsection.

(a) All outdoor lighting shall be designed and located such that the maximum illumination measured in foot candles at the property line does not exceed 0.2 on neighboring residential uses, and 0.5 on neighboring commercial sites and public rights-of-way

(b) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

(c) Fixtures used to accent landscaping or art shall be located, aimed, or shielded to minimize light spill into the night sky.

(d) Blinking or flashing lights shall be prohibited unless the lights are required as a safety feature.

(5) Nonconforming Lighting. Lighting fixtures existing as of the date of _____, 2008, may remain, and shall be considered lawful nonconforming structures. Modifications, replacement or expansions shall conform to the standards of this Ordinance.

(I) Multifamily Building Design.

(1) Multifamily projects shall be designed to satisfy the following objectives:

- (a) Provide interesting and aesthetically attractive multi-family developments;
- (b) Avoid monotonous, “barracks” style buildings;
- (c) Ensure that multi-family buildings have a multifaceted exterior form in which articulated façades are combined with window and door placements as well as other detailing;
- (d) Create an interesting and attractive architectural design; and
- (e) Otherwise limit flat walls with minimal features.

(2) Exterior materials shall be durable and residential in character. Suggested materials include wood clapboard siding, wood shingles, brick, stone, stucco, vinyl, or similar materials. Suggested pitched roof materials include asphalt shingles, standing seam metal, slate, or similar materials.

(3) The following minimum design standards shall be complied with:

- (a) Buildings shall not exceed 150 feet in length;
- (b) Façades greater than fifty (50) feet in length, measured horizontally, shall incorporate wall plane projections or recesses. Ground floor façades that face public streets shall have windows, entry areas, awnings, or other such features for at least sixty (60) percent of their horizontal length;
- (c) Buildings shall be arranged so that they are aligned parallel to a sidewalk or around common open space, such as courtyards, greens, squares, or plazas; and
- (d) On owner occupied units (townhouses and condominiums), side or rear entry garages are encouraged. When front entry garages are provided, the garage should be recessed at least twelve (12) feet behind the unit front wall line closest to the required front yard setback.

(4) Orientation. Multifamily buildings shall be oriented as follows:

- (a) For lots not exceeding 40,000 square feet, all multi-family buildings shall be oriented to the street.
- (b) For lots that are at or over 40,000 square feet, at least eighty (80) percent of

the ground area between the front lot line and the maximum setback, excluding required driveways and access points, shall be occupied by multi-family dwelling units that are oriented to the street. The remaining area may include driveways and required access points, or courtyards or similar open spaces.

(c) Window/Door/Exterior Finish Arrangement. Windows, porches, balconies, and entryways shall comprise at least thirty (30) percent of the length of the front elevation on each floor.

(5) Building Arrangement. Buildings that contain multi-family dwellings shall be arranged as follows:

(a) Multi-family buildings on multiple lots with an average frontage of less than fifty (50) feet in width shall be arranged at intervals consistent with the existing lot lines or the lot lines of the opposing block;

(b) Multi-family buildings on single or multiple lots with at least fifty (50) feet of frontage shall be arranged at intervals of not more than fifty (50) feet;

(c) Multi-family buildings that face single-family homes shall be arranged at intervals consistent with the existing yard requirements or the yard requirements of the opposing block; and

(d) The arrangement of buildings pursuant to this section shall include at least two of the following:

(1) Horizontal projections or offsets, such as towers or turrets, which extend at least five (5) feet from the front elevation and the height of the building up to the eaves. Projections or offsets shall be at least three (3) feet in depth and eight (8) feet in width;

(2) Projecting entryways, such as stoops, balconies, porticoes, bay windows, or porches;

(3) Changes in roof elevations, roof dormers, hips, or gables; or

(4) Open balconies that project at least six (6) feet from the front building plane.

See also section 152-163.1.1, “Building Design, Exterior Standards.”

§ 152-163.15. Planned Unit Development-Residential.

(A) Minimum Size. Residential Planned Unit Developments (“PUD-R”) must meet one of the following criteria:

(1) Eight (8) acres of net buildable area within the Town’s primary corporate limits, on one or more contiguous parcels; or

(2) Twenty-five (25) acres of net buildable area in the extraterritorial jurisdiction or noncontiguous corporate limit areas, on one or more parcels. This may include parcels on both sides of a street.

The size of the PUD-R shall be determined at the time a conditional zoning application is submitted.

(B) Allowable Use Standards. A PUD-R shall be developed in compliance with the uses and standards for one of the following zoning districts: R30-18, R20-16, R15-12, R10-10, R6-10, OI, B-2, or B-3. Within the primary corporate limits, commercial uses within a PUD-R shall be limited to uses and standards permitted within the B-3 zoning district.

See also section 152-163.1.1, “Building Design, Exterior Standards.”

(C) Maximum Overall Density. Six (6) dwelling units per acre of net buildable area.

(D) Open Space and Recreation Facilities.

(1) Fifteen (15) percent of the total PUD-R area shall be maintained as open space. Street rights-of-way, parking lots, building areas, and yards held in individual ownership shall not constitute any part of the required open space; however, building areas for recreational facilities may be computed as open space. At least ninety-two (92) percent of all approved open space shall be commonly owned by a homeowners’ or property owners’ association. Eight (8) percent of the open space area may be privately owned open space. Any open space land use not included under approval of the PUD-R Land Use Plan must be reviewed by the Planning Board and approved by the Town of Aberdeen Board of Commissioners prior to its development. All areas to be used as open space must be noted on the final recorded plat, and privately held open space must also be protected through a deed restriction. Additionally, open space provided to satisfy the requirements of this subsection shall meet the requirements for “usable open space” set forth in subsections 152-198(C) and (D).

(2) Recreational facilities shall be provided in accordance with section 152-199, “Active Recreation Facilities.”

(E) Streets.

(1) A dense network and connected grid of narrow streets with reduced curb radii may be fundamental to sound PUD-R design. This network serves to both slow and disperse vehicular traffic and provide a pedestrian friendly atmosphere. Such alternate guidelines are encouraged when the overall design ensures that nonvehicular travel is to be afforded every practical accommodation that does not adversely affect safety considerations. The overall function, comfort, and safety of a multipurpose or “shared” street are more important than its vehicular

efficiency alone.

(2) PUD-Rs should have a high proportion of interconnected streets, sidewalks, and paths. Streets and rights-of-way are shared between vehicles (moving and parked), bicycles, and pedestrians of all ages and abilities. Bikeways which are delineated on an approved Town of Aberdeen bikeway plan or Town of Aberdeen Comprehensive Plan must be included in the design and construction of the PUD-R. A dense network of PUD-R streets should function in an interdependent manner, providing continuous routes that enhance nonvehicular travel. Most PUD-R streets should be designed to minimize through traffic by the design of the street and the location of land uses. Streets are designed to be only as wide as needed to accommodate the usual vehicular mix for that street while providing adequate access for moving vans, garbage trucks, fire engines, and school buses. See Figures 1 to 8 at the end of this section for suggested design objectives.

(3) To accomplish the street design objectives, the Board of Commissioners may authorize variations to zoning and subdivision ordinance requirements when such changes are supported by a traffic impact analysis, as required by section 152-163.21. Variations may only be considered for developments expected to generate four hundred (400) or more trips per day, and such changes may be authorized only if the Town Fire, Police and Public Works Departments certify that the variation will not impair the provision of services to the development.

(F) Residential Development. The applicable area, yard, and height requirements as contained in the standards for the zoning districts indicated on the approved site plan shall be adhered to. All multi-family developments shall adhere to the applicable development regulations contained herein. Multi-family dwelling units shall not exceed twenty (20) percent of the total dwelling units within the PUD-R.

(G) Nonresidential Development. Non-residential uses are permitted, but not required in a PUD-R. In a PUD-R of twenty-five (25) acres or more, up to ten (10) percent of the net buildable area may consist of non-residential uses. In a PUD-R of less than twenty-five (25) acres, up to five (5) percent of the net buildable area may consist of non-residential uses. Non-residential uses should be located within a community core area and not on the periphery of the PUD-R.

(1) Elementary schools are an important community element, and the Town encourages their inclusion in PUD-Rs.

(2) Public structures, such as schools, churches and civic buildings, and public open spaces, such as squares, parks, playgrounds, and greenways, should be integrated into the neighborhood pattern.

(3) Industrial development shall not be allowed within a PUD-R zoning district.

(H) Procedure.

(1) PUD-Rs are permitted only in the PUD zoning district, which is a conditional zone.

(2) As part of the ordinances governing any new PUD-R conditional zone, the Board of Commissioners may vary or waive the standards and requirements established in this section.

(3) In addition to other considerations, the following criteria shall be considered in the evaluation of an application for a PUD-R conditional zoning district:

- (a) That the proposed development creates a needed residential environment;
- (b) That existing or proposed utility and other public services are adequate for the anticipated population densities;
- (c) That the proposed population densities, land uses, and other special characteristics of the development can exist in harmony with adjacent areas;
- (d) That the adjacent areas can be developed in compatibility with the proposed PUD-R;
- (e) That the proposed PUD-R will not adversely affect traffic patterns and flow in adjacent areas; and
- (f) That the PUD-R is in general conformity with the Town's Comprehensive Land Use Plan.

(4) Land Use Plan. In addition to or as part of the materials submitted to satisfy the requirements of section 152-328, "Plans and Other Information to Accompany Petition," all applications for a PUD-R conditional zoning district shall be accompanied by a Land Use Plan prepared by a licensed engineer or a licensed architect and which shall include, but not be limited to, the following:

- (a) The numbers and types of residential dwelling units, including density, setbacks and the delineation of nonresidential areas;
- (b) Designation/delineation of applicable zoning district designations; i.e., R10-10, B-3, etc. The zoning district designations will determine which standards will govern development. For example, an area designated R10-10 must utilize R10-10 minimum yard requirements and allowed uses;
- (c) Planned primary and secondary traffic circulation patterns showing proposed and existing rights-of-way and easements;
- (d) Common open space and recreation areas to be developed or preserved in accordance with this section. The peripheral boundary setback shall be indicated;

- (e) Preliminary (sketch) plans for water, sanitary sewer, storm sewer, natural gas, and electric utilities;
- (f) The delineation of areas to be constructed in sections, showing acreage;
- (g) Soil maps prepared according to the United States Department of Agriculture cooperative soil survey standards as published in the Moore County Soil Survey;
- (h) Boundary survey of the tract showing courses and distances and total acreage, including zoning, land use, and lot lines of all contiguous property;
- (i) Existing vegetation;
- (j) 404 wetland areas and any other nonregulated wetland areas of significance;
- (k) Flood hazard areas including base flood elevation;
- (l) Topographic contours at a maximum of two-foot intervals showing existing grades;
- (m) Site data including vicinity sketch, north arrow, engineering scale ratio, title of development, date of plan, name and address of owner/developer and person or firm preparing the plan;
- (n) Any other information as may be required by the Planning Board or staff;
- (o) Proposed phasing and timing of the PUD-R; and
- (p) Each proposed development phase shall be specifically titled/referenced by number and/or name.

(5) Additional Information Required. In addition to the Land Use Plan and those items that are or may be required by section 152-328, "Plans and Other Information to Accompany Petition," the developer shall be required to submit to the Land Use Administrator the following information and any other information that may be reasonably required by the Board of Commissioners:

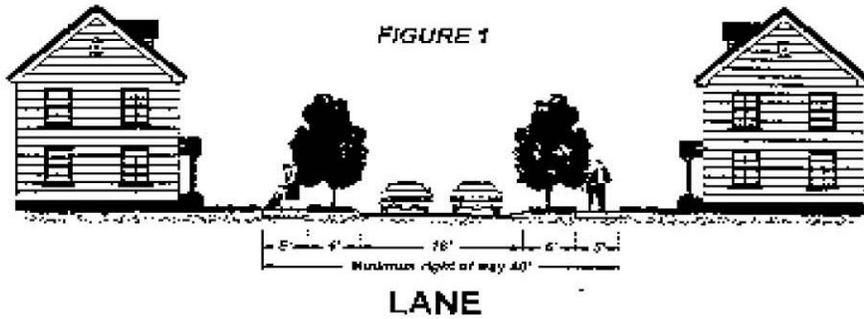
- (a) A draft of the proposed protective covenants whereby the developer proposes to regulate land use and otherwise protect the proposed development;
- (b) A draft of any proposed incorporation agreement and a draft of any bylaws or easement declarations concerning maintenance of recreational and other common facilities; and

(c) Data on the market potential necessary to support the location of the site and the size of uses in any planned development.

(l) Expiration of Conditional Zoning District.

Construction of a PUD-R must begin within one (1) year of the establishment of the conditional zoning district in which the development will be located. If all work authorized by the rezoning ceases for a continuous period of one (1) year after work has commenced, then the zoning of the tract shall automatically revert back to the zoning in effect at the time the conditional zoning district was established. Upon the request of the developer submitted prior to expiration of the time to begin construction, the Board of Commissioners may grant one-year extensions on the time to begin construction.

[Figures 1-8 begin on the next page.]



Purpose: Provides access to single-family homes.

Features

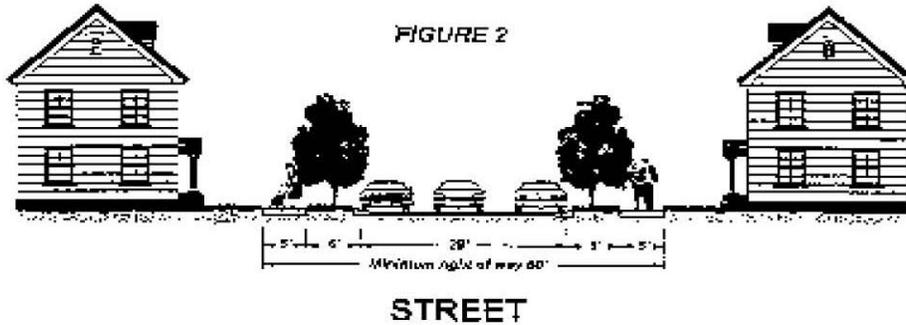
- Street width 18' with curb and gutter and informal parking designated on street
- Planting strips 5'
- Sidewalks 5' on each side
- Design speed 20 mph
- Posted speed 20 mph
- Requires a 40' right of way
- Drainage - curb and gutter

Features

- Generally two to six blocks long

Building and Land Use

- Residential - primarily single family homes



Purpose: Provides access to housing

Features

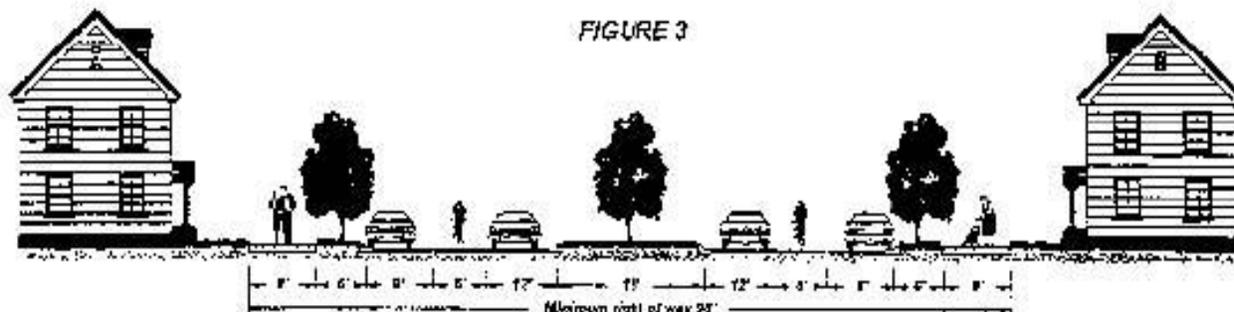
- Street width 25' with curb and gutter and informal parking
- Planting strips 5'
- Sidewalks 5' on each side
- Design speed 20 mph
- Posted speed 20 mph
- Requires a 60' right of way
- Drainage - curb and gutter

Features

- Generally two to six blocks long

Building and Land Use

- Residential - many residential types



AVENUE WITH PARKING

Purpose: Avenues are short distance, medium speed connectors between neighborhoods and core areas. As such, they are used in both residential and commercial areas, often terminating at prominent buildings or plazas. Avenues may also circulate around squares or neighborhood parks.

Features

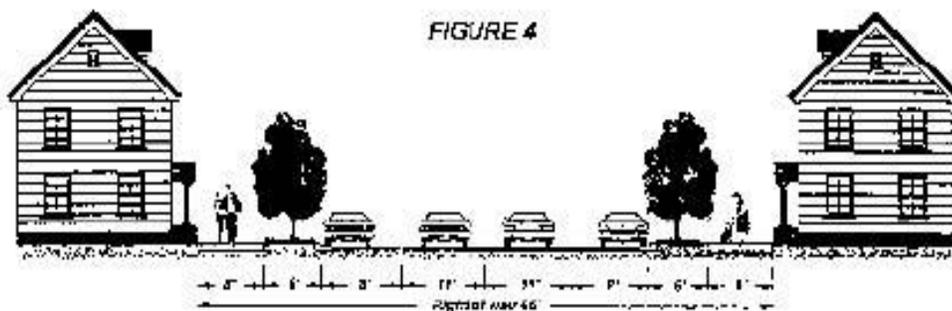
- Street width 26' on both sides of median with on-street parking, 15' if no parking or curb and gutter
- Median width 12' (minimum)
- Travel lanes 12'
- Maximum 2 travel lanes
- Bike lanes and planting strips 6'
- Sidewalks 5' on each side
- Design speed 30 mph (maximum)

Features

- Posted speed 25 - 30 mph
- Requires a 55' right of way
- Drainage - curb and gutter

Building and Land Use

- Mixed residential and commercial use



MAIN STREET WITHOUT MEDIAN

Purpose: Main streets provide low-speed access to neighborhood, commercial, and high density residential areas

Features

- Travel lanes 11' with striped parking
- Maximum 2 travel lanes
- Planting wells 6'- landscaped median optional (minimum 18')
- Sidewalks minimum of 5' each side
- Design speed 25 mph (maximum)
- Posted speed 20 - 25 mph
- Requires a 55' right of way

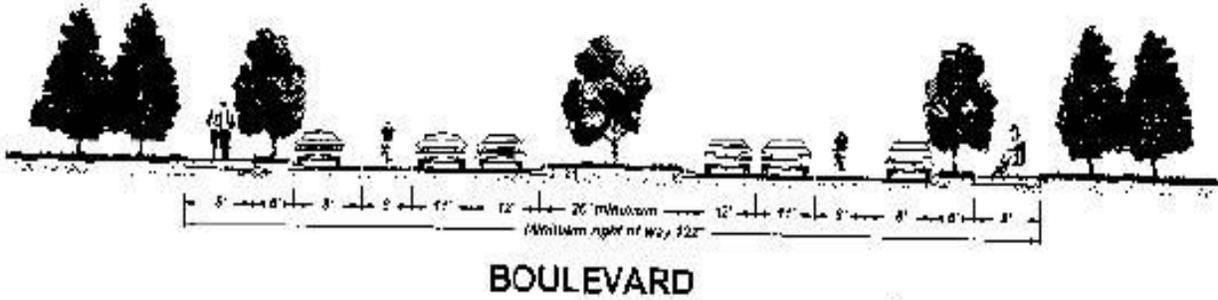
Features

- Drainage - curb and gutter
- Includes bulbouts at intersections and mid-block crossings
- Bike lanes optional but preferred (minimum 6')

Building and Land Use

- Commercial and mixed use
- High density residential

FIGURE 5



Purpose: Provides multi-lane access to commercial and mixed-use buildings, and carries regional traffic.

Features

- Lanes 11' with striped parking and bike lanes
- Maximum 4 travel lanes
- Planting strips 6' - 11'
- Sidewalks 8' on each side
- Design speed 40 mph (maximum)
- Posted speed 30 - 35 mph

Features

- Requires a 122' right of way
- Drainage - curb and gutter

Building and Land Use

- Commercial and mixed use

FIGURE 6



Purpose: Parkways bring people into town, or pass traffic through natural areas. Parkways are not designed for development. When the parkway enters town, it becomes a boulevard.

Features

- Travel lanes 11 - 12'
- Median width 30'
- Design speed 50 mph (maximum)
- Posted speed 45 mph (maximum)
- Requires a 118' right of way (minimum)
- Drainage - swales allowed, or curb and gutter
- Multi-use trails 10 - 14'
- Planting strips 7 - 20'
- Bike lane not adjacent to travel lane

Features

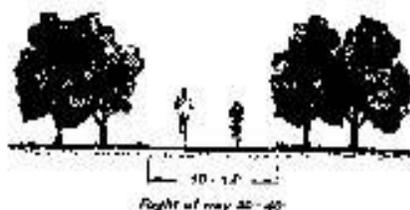
- 8' minimum paved shoulder on high-speed parkway (greater than 45 mph, typical section has shoulder with ditches)

Building and Land Use

- Parkways are designed to be on the edge of towns, nature preserves, or agricultural areas
- Multi-use trails may be on either or both sides

Provided for informational use only

FIGURE 7



TRAIL

Purpose: Provides non-motorized access throughout the neighborhood.
 [Note: Not to be accepted onto the state system]

Features

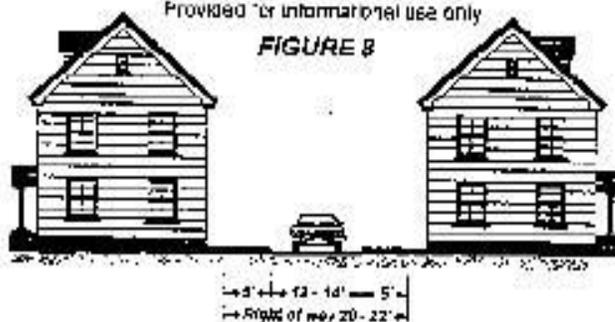
- Shade trees recommended
- Trail width 10—14'
- Stopping sight distance 125'
- Clear zone 3—6'

Building and Land Use

- Link to make connections between homes, parks, schools, and shopping districts

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FIGURE 8



Alleys

Purpose: Although part of the interconnected street system, alleys provide access to property but are not intended to accommodate through traffic. Alleys are often used by garbage trucks. In some areas, alleys must accommodate dumpsters.
 [Note: Not to be accepted onto the state system]

Features

- Requires 20' right of way (minimum)
- Utilities, either above or underground, may be located in alleyways to provide service connections to rear elevations
- Width 12' (minimum)
- Additional pavement at alleyway intersections is necessary to facilitate turns.

Building and Land Use

- Residential – primarily single family
- Provides rear access to garages

§ 152-163.16. Planned Unit Development-Business and Industrial.

(A) Purpose.

(1) Business Planned Unit Development (“PUD-B”). The purpose of a PUD-B is to promote the cooperative development of business centers each with adequate off-street parking, to control access points on thoroughfares, to separate pedestrian and automobile traffic, to aid in stabilizing property values, to develop centers of size and location compatible with market potential, to buffer adjacent residential areas with landscaped green spaces and to encourage harmonious architectural treatment of adjacent commercial structures and compatibility between homes and commercial structures.

(2) Industrial Planned Unit Development (“PUD-I”). The purpose of a PUD-I is to promote the establishment of industrial parks, to permit groups of industrial buildings with integrated design and a coordinated physical plan, to encourage recreational facilities within industrial areas and to buffer adjacent residential areas with landscaped green spaces.

(B) Permitted Uses, Dimensional Requirements, Buffer Screens and Parking. Those uses permitted of right or by special use or conditional use permit in the GC, B-2 and B-3 zoning districts shall be permitted in PUD-Bs, and the dimensional requirements (i.e. minimum lot size, building setbacks, building height limitations, etc.), buffer screens and parking requirements for uses in PUD-Bs shall be the same as for uses in the GC zoning district. Those uses permitted of right or by special use or conditional use permit in the C-I zoning district shall be permitted in PUD-Is, and the dimensional requirements (i.e. minimum lot size, building setbacks, building height limitations, etc.), buffer screens and parking requirements for uses in PUD-Is shall be the same as for uses in the C-I zoning district. Buffer screens and parking requirements may also be varied, provided the Town Board adopts reasonable conditions to protect neighboring properties from potential adverse effects that may arise because of these variations.

See also section 152-163.1.1, “Building Design, Exterior Standards.”

(C) Designation of Permanent Common Open Space.

(1) For the purpose of this section, “permanent common open space” shall be defined as any land held and developed as permanent open space or any land dedicated to the public as parks, playgrounds, parkway medians, landscaped green space, schools, community centers or other similar areas held in public ownership or covered by an open space easement. Additionally, open space provided to satisfy the requirements of this subsection shall meet the requirements for “usable open space” set forth in subsections 152-198(C) and (D).

(2) Designation. No plan for a PUD-B or PUD-I shall be approved unless such plan provides for permanent open space equivalent to five (5) percent of the total area.

(D) Buffer screens. Buffer screens shall be required pursuant to the requirements of article XIX, “Screening, Landscaping and Trees,” but may be reduced or varied pursuant to section 152-310, “Flexibility in Administration Required.” Pursuant to section 152-331, “Conditions on

Approval of Petition,” the Board of Commissioners shall adopt any and all conditions that it finds necessary to further protect surrounding areas from the effects of a reduced screen.

(E) Off-street parking and loading requirements. Off-street parking and loading shall be provided as required in Article XVIII, “Parking.”

(F) Procedure.

(1) PUD-Bs and PUD-Is are permitted only in PUD zoning districts, which are conditional zones.

(2) As part of the ordinances governing any new PUD-B or PUD-I conditional zone, the Board of Commissioners may vary or waive the standards and requirements established in this section.

(3) In addition to other considerations, the following criteria shall be considered in the evaluation of an application for a PUD-B or a PUD-I conditional zoning district:

- (a) That the proposed development creates a needed business or industrial environment;
- (b) That existing or proposed utility and other public services are adequate for the anticipated uses;
- (c) That the proposed land uses and other special characteristics of the development can exist in harmony with adjacent areas;
- (d) That the adjacent areas can be developed in compatibility with the proposed PUD;
- (e) That the proposed PUD will not adversely affect traffic patterns and flow in adjacent areas; and
- (f) That the PUD is in general conformity with the Town’s Comprehensive Land Use Plan.

(4) Land Use Plan. In addition to or as part of the materials submitted to satisfy the requirements of section 152-328, “Plans and Other Information to Accompany Petition,” all applications for a PUD-B or PUD-I conditional zoning district shall be accompanied by a Land Use Plan prepared by a licensed engineer or a licensed architect and which shall include, but not be limited to, the following:

- (a) If there are to be any residential units within the PUD, the numbers and types of residential dwelling units, including density, setbacks and the delineation of nonresidential areas;

- (b) Designation/delineation of applicable zoning district designations; i.e. GC, B-2, B-3 or C-1. The zoning district designations will determine which standards will govern development. For example, an area designated GC will be governed by the restrictions of the GC district;
- (c) Planned primary and secondary traffic circulation patterns showing proposed and existing rights-of-way and easements;
- (d) Common open space and recreation areas to be developed or preserved in accordance with this section. The peripheral boundary setback shall be indicated;
- (e) Preliminary (sketch) plans for water, sanitary sewer, storm sewer, natural gas, and electric utilities;
- (f) The delineation of areas to be constructed in sections, showing acreage;
- (g) Soil maps prepared according to the United States Department of Agriculture cooperative soil survey standards as published in the Moore County Soil Survey;
- (h) Boundary survey of the tract showing courses and distances and total acreage, including zoning, land use, and lot lines of all contiguous property;
- (i) Existing vegetation;
- (j) 404 wetland areas and any other nonregulated wetland areas of significance;
- (k) Flood hazard areas including base flood elevation;
- (l) Topographic contours at a maximum of two-foot intervals showing existing grades;
- (m) Site data including vicinity sketch, north arrow, engineering scale ratio, title of development, date of plan, name and address of owner/developer and person or firm preparing the plan;
- (n) Any other information as may be required by the Planning Board or staff;
- (o) Proposed phasing and timing of the PUD; and
- (p) Each proposed development phase shall be specifically titled/referenced by number and/or name.

(5) Additional Information Required. In addition to the Land Use Plan and those items that are or may be required by section 152-328, “Plans and Other Information to Accompany Petition,” the developer shall be required to submit to the Land Use Administrator the following information and any other information that may be reasonably required by the Board of Commissioners:

- (a) If necessary, a draft of the proposed protective covenants whereby the developer proposes to regulate land use and otherwise protect the proposed development;
- (b) A draft of any proposed incorporation agreement and a draft of any bylaws or easement declarations concerning maintenance of recreational and other common facilities; and
- (c) Data on the market potential necessary to support the location of the site and the size of uses in any planned development.

(G) Expiration of Conditional Zoning District.

Construction of a PUD-B or PUD-I must begin within one (1) year of the establishment of the conditional zoning district in which the development will be located. If all work authorized by the rezoning ceases for a continuous period of one (1) year after work has commenced, then the zoning of the tract shall automatically revert back to the zoning in effect at the time the conditional zoning district was established. Upon the request of the developer submitted prior to expiration of the time to begin construction, the Board of Commissioners may grant one-year extensions on the time to begin construction.

§ 152-163.17. Retail Centers, Shopping Centers and Shopping Malls.

See also section 152-163.1.1, “Building Design, Exterior Standards.”

(A) Retail centers, shopping centers and shopping malls require a conditional use permit.

(B) Shopping Centers.

(1) Parking for customers and employees of a shopping center shall be provided on site.

(2) Shopping centers must be built on tracts having a minimum area of three (3) acres.

(C) Shopping malls may include offices and satellite structures that are served by the mall road network.

(D) Outparcels. For the purposes of this chapter, outparcels are considered part of a retail center or shopping center and must conform to the signage ordinances applicable to the shopping center. Outparcels established prior to September 9, 1991, however, are not considered part of a retail center or shopping center and, thus, are not subject to those uniform signage regulations. See section 152-28(D).

§ 152-163.17.1. Retail Services in O-I Zoning District.

Notwithstanding the Table of Permissible Uses, banking and other financial services and professional services are the only retail services permitted in the O-I zoning district.

§ 152-163.18. Roadside Stands.

(A) Roadside stands are limited to the sale of the following: produce, including fruits and vegetables; horticultural uses such as nursery stock, shrubs, trees and flowers; and other farm goods such as honey, Christmas trees and pumpkins. Prepared food may not be sold from a roadside stand.

(B) A roadside stand must satisfy the following requirements:

(1) The operator of the stand must receive a temporary certificate of zoning compliance for the operation of the stand.

(2) No electrical wiring or plumbing for the stand may be installed without a building permit or a certification by the Building Inspector that the proposed work is exempt from the requirements of the North Carolina State Building Code.

(3) A stand must not obstruct the clear view of intersecting streets, and a stand may not, in itself, be an obstruction to traffic.

(4) The stand location must not present any significant negative effects upon the surrounding environmental quality or natural resources or encroach upon any public street or right-of-way. The Land Use Administrator may require that a special use permit be issued for any proposed stand that, in the opinion of the Administrator, may have significant negative effects upon the surrounding environmental quality or natural resources.

(5) If the stand operator is someone other than the owner of the land upon which the stand is to be sited, the stand operator must obtain written permission from the property owner to operate the stand.

§ 152-163.18.1. Sexually Oriented Businesses.

(A) Sexually oriented businesses include all uses included in use group 31.000 in the Table of Permissible Uses (see section 152-146).

(B) Location of Sexually Oriented Businesses.

(1) No sexually oriented business shall be located within 1,500 feet of another sexually oriented business.

(2) No sexually oriented business may be located within 1,500 feet of a nursery, public or private school, day care, church or other religious institution.

(3) No sexually oriented business may be located within 1,000 feet of a residential district or residence.

(4) For the purpose of enforcing this section, distances shall be measured from the exterior wall of the sexually oriented business to the property line of the use or district dictating the distance standard.

(C) Landscaping. Sexually oriented businesses shall be screened by at least a Type A, "Opaque Screen and Landscaping," as described in section 152-308. Additionally, the area of landscaping shall be at least fifteen (15) feet wide with a mix of vegetation types and shall incorporate a wall, fence or other physical barrier wherever possible and advantageous to the interest of protected adjoining properties. Notwithstanding the foregoing, the landscaping and screening shall be designed to completely shield a sexually oriented business from adjoining properties.

(D) Signs. Notwithstanding the provisions of article XVII, "Sign Regulations," the signage for sexually oriented businesses shall be limited as follows:

(1) There may be no more than one wall sign per business;

(2) The wall sign may consist of the name and address of the establishment, but may not incorporate any graphic image or logo; and

(3) The wall sign may be no larger than twenty square feet.

See also, Aberdeen Code of Ordinances Chpt. 117, "Sales of Sexually Explicit Materials."

§ 152-163.19. Temporary Emergency, Construction or Repair Residences.

(A) Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.

(B) Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six (6) months after the date of issuance, except that the Land Use Administrator may renew such permit for one additional period not to exceed three (3) months if he or she determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

§ 152-163.19.1. Therapeutic Wilderness Camp.

Therapeutic wilderness camps may contain some or all of the following uses: wooden sleeping structures, primitive camping areas, shower houses, meal halls, offices, places of worship, onsite housing for staff and counseling facilities. A minimum of 300 acres is required for this use.

§ 152-163.20. Townhomes, Additional Regulations.

(A) Minimum Lot Area. There shall be a minimum of 3,000 square feet for each individual lot. Individual lots shall be exclusive of any public land or street right-of-way. In no case shall the number of dwelling units exceed eight (8) per acre, exclusive of any streets or publicly dedicated land.

(B) Side Yard for Townhomes. Side yards shall be a minimum of ten (10) feet in width. There shall be no setback between the building line of the dwelling unit and interior side lot lines. In order to ensure proper and functional development under these regulations, it is mandatory that interior dwelling units be constructed to encompass the total building width of the lot, and at least fifty (50) percent of the linear distance of the common building wall dividing the interior living quarters of the two (2) attached dwelling units shall be located between the two (2) said attached dwelling units. The side yard setbacks for end dwelling units shall be as required for side yards in the R6-10 and B-3 zoning districts.

(C) Access. Each lot shall front on a public street. An eight (8) foot pedestrian, drainage and utility easement shall be provided on each lot along the entire length of all rear lot lines and side lot lines which are situated between the end walls of buildings. No fences, trees, shrubbery or other similar obstructions shall be permitted in that eight (8) foot pedestrian, drainage and utility easement.

See also section 152-163.1.1, “Building Design, Exterior Standards.”

§ 152-163.21. Traffic Impact Analysis.

(A) Purpose. A traffic impact study shall be required for any use generating more than 600 trips per day, as defined by the American Association of State Highway Officials (AASHTO). The study will enable the Town of Aberdeen to assess the impact of a proposed development on the Town street system and the State highway system, when that system is at or near capacity, and when a safety problem exists. Its purpose is to insure that proposed developments do not adversely affect the Town street system and State highway system and to identify any traffic problems associated with access from the site to the existing transportation network. The purpose of the study is also to identify solutions to potential problems and to present improvements to be incorporated into the proposed development.

(B) Applicability.

(1) Except as described below, a traffic impact study shall be required for any

special use permit, conditional use permit, conditional rezoning, or subdivision application that is estimated to generate more than 600 trips per day.

(2) Notwithstanding subsection 152-163.21(B)(1), the Board of Commissioners may require any special use permit, conditional use permit, conditional rezoning or subdivision application to be accompanied by a traffic impact study when a road capacity or safety issue exists. If one is required, the Town will notify the applicant of the reason for the requirement.

(3) Special use permits, conditional use permits, conditional rezoning or subdivisions that produce more than 600 trips per day may be exempted from the requirements to prepare and submit a traffic impact study if:

(a) A traffic impact study has previously been prepared for this particular development, the study is no more than five (5) years old and the Administrator determines that the data remains accurate and sufficient enough to allow the Town to effectively evaluate the project;

(b) There is to be no change in land use or density that would increase travel;

(c) There is to be no change in access to the external street system; or

(d) Material is submitted to demonstrate that traffic created by the proposal when added to existing traffic will not result in a need for transportation improvements.

The Board of Commissioners, with a recommendation from the Planning Board, will review material submitted in support of an exemption and will determine from that material whether or not to grant the exemption. All exemptions shall be concurred with by the NC DOT District Office. If an exemption is granted, documentation of the exemption will be submitted as part of the staff recommendation.

(4) If the project is reviewed as a Planned Unit Development, only one traffic impact study is required, irrespective of the proposed number of phases, unless revisions are proposed that would increase traffic or change access.

(C) Capacity Analysis of the Existing System. Traffic impact studies shall utilize the level of service (“LOS”) methodology described in the table and graphic labeled “Levels of Service” on the pages that follow.

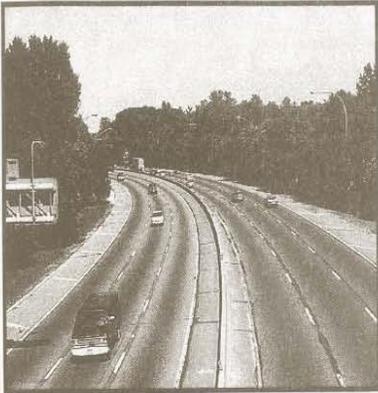
An indication of the adequacy of the existing street system is a comparison of traffic volumes versus the ability of the streets to move traffic freely at a desirable speed. The ability of a street to move traffic freely, safely, and efficiently with a minimum delay is controlled primarily by the spacing of major devices utilized. Thus, the ability of a street to move traffic can be increased by restricting parking and turning movements, using proper sign and signal devices, and by the application of other traffic engineering strategies.

Capacity is the maximum number of vehicles which have a “reasonable expectation” of passing over a given section of roadway, during a given time period under prevailing roadway and traffic conditions. The relationship of traffic volumes to the capacity of the roadway will determine the level of service (LOS) being provided. Six levels of service have been selected for analysis purposes. They are given letter designations from A to F with LOS A representing the best operating conditions and LOS F the worst. For a visual representation, see the figure labeled “Levels of Service” at the end of this subsection.

Levels of Service	
Level of Service	Description
A	Describes primarily free flow conditions. The motorist experiences a high level of physical and psychological comfort. The effects of minor incidents of breakdown are easily absorbed. Even at the maximum density, the average spacing between vehicles is about 528 feet or 26 car lengths.
B	Represents reasonably free flow conditions. The ability to maneuver within the traffic stream is only slightly restricted. The lowest average spacing between vehicles is about 330 feet or 18 car lengths.
C	Provides for stable operations, but flows approach the range in which small increases will cause substantial deterioration in service. Freedom to maneuver is noticeably restricted. Minor incidents may still be absorbed, but the local decline in service will be great. Queues may be expected to form behind any significant blockage. Minimum average spacing is in the range of 220 feet or 11 car lengths.
D	Borders on unstable flow. Density begins to deteriorate somewhat more quickly with increasing flow. Small increases in flow can cause substantial deterioration in service. Freedom to maneuver is severely limited, and the driver experiences drastically reduced comfort levels. Minor incidents can be expected to create substantial queuing. At the limit, vehicles are spaced at about 165 feet or nine car lengths.
E	Describes operation at capacity. Operations at this level are extremely unstable, because there are virtually no usable gaps in the traffic system. Any disruption to the traffic stream, such as a vehicle entering from a ramp, or changing lanes, requires the following vehicles to give way to admit the vehicle. This can establish a disruption wave that propagates through the upstream traffic flow. At capacity, the traffic stream has no ability to dissipate any disruption. Any incident can be expected to produce a serious breakdown with extensive queuing. Vehicles are spaced at approximately six car lengths, leaving little room to maneuver.
F	Describes forced or breakdown flow. Such conditions generally exist within queues forming behind breakdown points.

Levels of Service

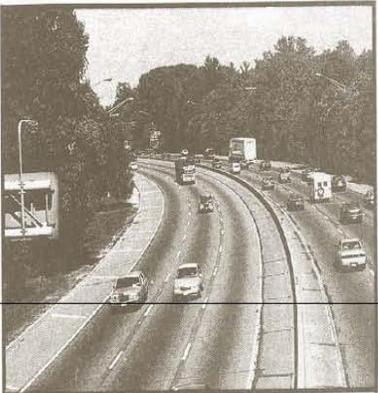
Source: 1994 Highway Capacity Manual



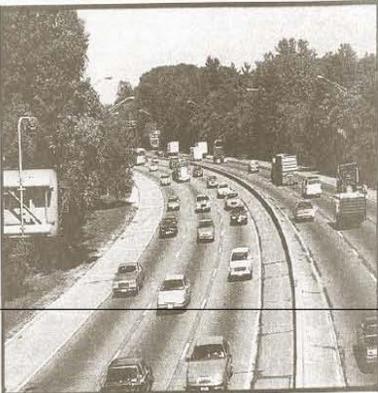
LOS A.



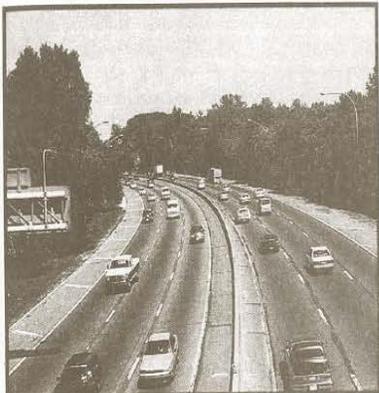
LOS D.



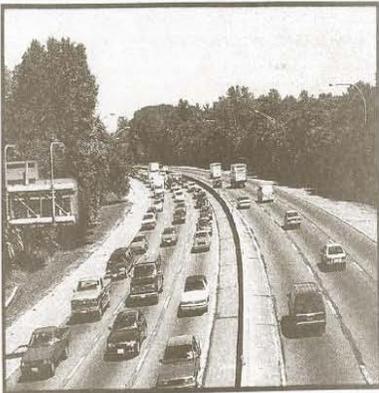
LOS B.



LOS E.



LOS C.



LOS F.

(D) General Requirements and Standards. The traffic impact study shall contain the following information:

(1) General Site Description. The site description shall include the size, location, proposed land uses, number of units and gross square footage by land use, existing land use and zoning, construction staging, and completion date of the proposed land development to the extent known or able to be described at the time the application is prepared. If the development is residential, types of dwelling units and number of bedrooms shall also be included. A brief description of other major existing and proposed land developments within the study area shall be provided. The general site description shall also include probable socioeconomic characteristics of potential site users to the extent that they may affect the transportation needs of the site (i.e., number of senior citizens).

(2) Transportation Facilities Description. The description shall contain a full documentation of the proposed internal and existing external transportation system. This description shall include proposed internal vehicular, bicycle, and pedestrian circulation; all proposed ingress and egress locations; all internal roadway widths and rights-of-way, pedestrian crossings, curb cuts, turn lanes, parking conditions and traffic channelizations; safety or wayfinding signs; and any traffic signals or other intersection control devices at all intersections within the site.

The report shall describe the entire external roadway system within the study area. Major intersections in the study area and all intersections or driveways adjacent to or within 800 feet of the site shall be identified and sketched. All existing and proposed public transportation services and facilities within one mile of the site shall also be documented. Future highway improvements, including proposed construction and traffic signalization, shall be noted. All proposed traffic signals shall be approved by the NC DOT District Office. This information shall be obtained from North Carolina's Transportation Improvement Program and the thoroughfare plan. Any proposed roadway improvements due to proposed surrounding developments shall also be noted.

(3) Existing Traffic Conditions. Existing traffic conditions shall be documented for all roadways and intersections in the study area. This shall include documentation of traffic accident counts as recorded by the NC DOT, Division of Motor Vehicles Traffic Records Branch; Town law enforcement; and the NC Highway Patrol. Existing traffic volumes for average daily traffic, peak highway hour(s) traffic, and peak development generated hour(s) traffic, if appropriate, shall be recorded. Manual traffic counts at major intersections in the study area shall be conducted, encompassing the peak highway and development generated hour(s), if appropriate, and documentation shall be included in the report. Existing average daily or peak-hour traffic counts made within one year of the study date may be used subject to land use patterns and development rates when approved by the Administrator. A volume/capacity analysis based upon existing volumes shall be performed during the peak highway hour(s) and the peak development generated hour(s), if appropriate, for all roadways and major intersections expected to be impacted by development traffic. Levels of service shall be determined for each signalized intersection or roadway segment analyzed above.

This analysis will determine the adequacy of the existing roadway system to serve the

current traffic demand. Roadways and/or intersections experiencing levels of service E or F shall be noted as congestion locations.

(4) **Transportation Impact of the Development.** Estimation of vehicular trips to result from the proposed development shall be completed for the average weekday, the average daily peak hours of highway travel in the study area, and if appropriate, the peak hour of traffic generation by the development. Vehicular trip generation rates to be used for this calculation shall be obtained from an accepted, current source such as “Trip Generation” (Institute of Transportation Engineers, Seventh Edition, 1987 as amended or superceded). These development generated traffic movements, as estimated, and the reference source(s) and methodology followed shall be documented. These generated volumes shall be distributed to the study area and assigned to the existing roadways and intersections throughout the study area. Documentation of all assumptions used in the distribution and assignment phase shall be provided. All average daily traffic link volumes within the study area shall be shown graphically. Peak hour turning movement volumes shall be shown for signalized and other major intersections, including all access points to the development. Pedestrian and bicycle volumes at school crossings and as otherwise applicable shall be reported. Any characteristics of the site or use that will cause trip generation to vary significantly from average rates available in published sources shall be documented, including such factors as diversion of passerby traffic, internal capture, staggered work hours, or use of transit.

(5) **Analysis of Transportation Impact.** The total traffic demand that will result from construction of the proposed development shall be calculated. This demand shall consist of the combination of the existing traffic, traffic generated by the proposed development, and traffic due to other developments and other growth in traffic that would be expected to use the roadway at the time the proposed development is completed. If staging of the proposed development is anticipated, calculations for each stage of completion shall be made. This analysis shall be performed for average weekday traffic, the peak highway hour(s) and, if appropriate, peak development generated hour(s) for all roadways and major intersections in the study area. Volume/capacity calculations shall be completed for all major intersections. It is usually at these locations that capacity is most restricted. All access points, major entrances and driveways, and pedestrian crossings shall be examined for adequate sight distance and for the necessity of installing traffic signals. The traffic signal evaluation shall compare the projected traffic and pedestrian volumes to the warrants for traffic signal installation.

(6) **Conclusions and Recommended Improvements.** Levels of service for all roadways and signalized intersections serving ten (10) percent or more of peak-hour project traffic shall be reported. All roadways and/or signalized intersections showing a level of service below C shall be considered deficient, and specific recommendations for the elimination of these problems shall be listed. Recommendations should address the need for pedestrian related facilities/improvements. This listing of recommended improvements shall include, but not be limited to, the following elements: internal circulation design, site access location and design, connectivity and short cuts, safety and traffic calming, street crossing design and placement, external roadway and intersection design and improvements, traffic signal installation and operation including signal timing, transit service improvements and consideration of the needs of special pedestrian populations. All physical roadway improvements shall be shown on the site plan.

(E) Submission and Implementation. The traffic impact study will be submitted to the Administrator within the applicable time frame indicated below. The Administrator will review the study as part of the development review process. Recommendations will be incorporated into the approval process as indicated below.

(1) Special Use and Conditional Use Permits.

(a) Time of Submission. The traffic impact study shall be submitted as a part of the application for the special use or conditional use permit, or at such other time as authorized by the Administrator.

(b) Review and Implementation. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the impact study to analyze its adequacy in solving any traffic problems that will occur due to the proposed use.

The permit-issuing board shall consider the impact study and the analysis of the impact study before the application is approved or denied. Said board may decide that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate site traffic are mandatory for special use or conditional use permit approval and may make these improvements conditions of approval, may require modifications in the use, or may deny the permit, provided that such conditions, requirements or denial shall conform in all respects with article IV, part 1 of this ordinance.

(2) Subdivision Plat Approval.

(a) Time of Submission. The traffic impact study will be submitted prior to or with the preliminary plat.

(b) Review and Implementation. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the impact study to analyze its adequacy in solving any traffic problems that will occur due to development proposed on the plat. The approval-issuing authority may find that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate site traffic are mandatory for subdivision plat approval, and it may require that these improvements be undertaken and depicted on the approved plat.

(3) Conditional Zoning District Approval.

(a) Time of Submission. The traffic impact study shall be submitted at the time the conditional zoning district petition is submitted, or at such other time as authorized by the Administrator.

- (b) Review and Implementation. The Administrator and such other agencies or officials as may appear appropriate in the circumstances of the case shall review the impact study to analyze its adequacy in solving any traffic problems that will occur due to development proposed on the site plan. The Town Board may find that certain improvements on or adjacent to the site or on roadways or intersections for which the improvements are needed to adequately and safely accommodate site traffic are mandatory for conditional zoning district approval, and it may request that reasonable and appropriate conditions be attached to approval of the petition in conformance with section 152-331, “Conditions on Approval of Petition.”

§ 152-163.22. Water Towers.

No government owned or operated water storage tank or similar facility may be located closer than one-half (1/2) mile from any other government owned or operated water storage tank or similar facility.

§ 152-163.23. Amateur Radio Antennas.

(A) Due to health, safety and aesthetic considerations, the town hereby regulates amateur radio antennas. Nothing in this chapter, however, is intended to violate the requirements of G.S. § 160A-383.3, which requires that amateur radio antennas be reasonably accommodated and be subject only to the minimum practicable regulations necessary.

(B) Amateur radio antennas must be located a minimum distance from all property lines that is equal to or greater than the height of the proposed antenna. For example, a forty (40) foot tall antenna must be located at least forty (40) feet from all property lines.

§ 152-163.23.1. Wireless Telecommunications Facilities.

(A) When considering applications for wireless telecommunications facilities, the town shall comply with the requirements of G.S. Chpt. 160A, Art. 19, Part 3E, “Wireless Telecommunications Facilities,” and 47 U.S. § 332.

(B) Wireless telecommunications facilities may only be located on a tower, within church steeples or similar structures on other religious buildings, on town water tanks or on or within property owned or leased by a governmental entity.

(C) When considering a permit application for a wireless telecommunications facility, the town shall not require information about and the permit-issuing authority shall not consider the following:

- (1) An applicant’s business decisions about its designed service,
- (2) Customer demand for an applicant’s service,

- (3) The quality of an applicant's service to or from a particular site, or
- (4) The radio frequency emissions that will be produced by the facility.

(D) When considering an application for a wireless telecommunications facility that requires either a special use permit or a conditional use permit, the permit issuing authority may consider the following:

(1) Issues pertaining to public safety, aesthetics, landscaping, structural design, setbacks, and fall zones;

(2) Information or materials directly related to an identified public safety, zoning or other land development issue, including evidence that no existing or previously approved structure can reasonably be used for the antenna placement instead of the construction of a new tower; that residential, historic, and designated scenic areas cannot be served from outside the area; or that the proposed height of a new tower or initial antenna placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the applicant's designed service; and

(3) For permit applications for new wireless facilities, whether it is reasonably feasible to collocate new antennas and equipment on an existing structure or structures within the applicant's search ring. Collocation on an existing structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing structure is unwilling to enter into a contract for such use at fair market value.

(E) Qualified applications for the collocation of wireless telecommunications facilities shall be entitled to streamlined processing. Streamlined processing means that the application shall be reviewed for conformance with applicable site plan and State Building code requirements but that shall not otherwise be subject to zoning requirements or public hearing requirements. Streamlined processing shall be completed within forty-five (45) days of the town's receipt of a completed application. To qualify for streamlined processing, the new facility shall either:

- (1) Not exceed the number of wireless telecommunications facilities previously approved for the wireless support structure on which the collocation is proposed and meet all the other requirements of the original approval; or
- (2) Meet the following requirements:
 - (i) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached;
 - (ii) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities;

- (iii) The wireless telecommunications facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure;
- (iv) The additional wireless facilities comply with all federal, State and local safety requirements; and
- (v) The collocation does not exceed the applicable weight limits for the wireless support structure.

(F) Pursuant to 47 U.S.C. § 332(c)(7), all applications for wireless telecommunications facilities, other than collocation applications, shall be acted on by the permit-issuing authority within 150 days of the town's receipt of the completed application.

(G) **Military Base Notice:** If any proposed change relating to telecommunications towers would occur on property located within five (5) miles or less from the perimeter boundary of a military base, the town shall provide written notice as provided in section 152-323(E). Proposed changes include, but are not limited to, the submission of an application for a zoning compliance permit, special use permit application or conditional use permit application for a telecommunication tower (i.e. any use listed as part of "18.000 Towers, Dish Antennas and Related Structures" in section 152-146, the Table of Permissible Uses.) *(Amended 10/26/2015)*

§ 152-163.24. Electronic Gaming Operations.

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

(A) **Hours of Operation.** Electronic gaming operations may operate from 1:00 p.m. until 10:00 p.m., seven (7) days per week;

(B) **Spacing Requirements.**

(1) Each electronic gaming operation must be a minimum of 1,000 feet from any building being used as a dwelling.

(2) Each electronic gaming operation must be a minimum of one-half (1/2) mile from any other electronic gaming operation.

(3) For the purposes of this subsection, the distance shall be measured in a straight line from the closest point between the building housing the electronic gaming operation and the building housing the dwelling or other electronic gaming operation;

(C) Electronic gaming operations are prohibited in or as a part of any check cashing facility;

(D) All applicable State and local permits and business licenses must be issued to the applicant prior to the opening of the business; and

(E) If food and/or beverages are served, the establishment must meet any State requirements and the requirements of the Moore County Health Department.

§ 152-163.25. Use and Storage of Explosives.

(A) The manufacture or storage of explosives as a primary use is prohibited. Explosives may be stored as an accessory use in the C-I and I-H zoning districts, provided that such storage strictly complies with all applicable State and federal requirements, including, but not limited to 27 C.F.R. Part 555, “Commerce in Explosives”; G.S. § 14-284.1(c); 13 N.C.A.C. 7F .0700, *et seq.*, “Blasting and Use of Explosives”; and the 2009 North Carolina State Building Code, Fire Prevention Code, Chapter 33, “Explosives and Fireworks.”

(B) The use of explosives shall be regulated by the Town of Aberdeen Fire Department in accordance with the requirements of the 2009 North Carolina State Building Code, Fire Prevention Code, Chapter 33, “Explosives and Fireworks.”

(C) The Police Chief and, if appropriate, the Fire Chief, or their designees, shall review all proposals for uses that will involve the use or storage of explosives or the discharge of firearms. Based on this review, the Police Chief and, if appropriate, the Fire Chief shall prepare a written evaluation of whether the proposed use presents public safety concerns. If appropriate, the evaluation may include proposed rules and guidelines regarding the type and caliber of firearms permitted as part of the use. The evaluation may provide recommendations for ways to mitigate public safety concerns. The evaluation shall be submitted to the Land Use Administrator prior to any required public hearing for the proposed use. (*Amended 11/17/2014*)

§ 152-163.26. Kennels.

(A) Large Kennels. A large kennel shall meet the following requirements:

(1) It shall be located on a tract of land that is a minimum of fifty (50) acres in size;

(2) All buildings and structures associated with the kennel shall be located a minimum of 1,000 feet from any hospital, retirement home or assisted living center building in operation as of the date the certificate of zoning compliance for the kennel is issued;

(3) All boarding facilities for animals shall be set back a minimum of 100 feet from the property line. Ordinary building setback requirements shall apply to all other kennel facilities, including training areas;

(4) All required State and federal licenses, approvals or permits for site operation must be filed with the town before the kennel receives a certificate of occupancy; and

(5) In addition to the other buffering requirements imposed by this chapter, fencing shall be provided to separate boarding, training, and material storage areas of the kennel from adjoining uses.

(B) Small Kennel. A small kennel shall meet the following requirements:

(1) It shall be located on a tract of land that is a minimum of ten (10) acres in size but less than fifty (50) acres in size;

(2) All boarding facilities for animals shall be set back a minimum of fifty (50) feet from the property line. Ordinary building setback requirements shall apply to all other kennel facilities, including training areas;

(3) All required State and federal licenses, approvals or permits for site operation must be filed with the town before the kennel receives a certificate of occupancy; and

(4) In addition to the other buffering requirements imposed by this chapter, fencing shall be provided to separate boarding, training, and material storage areas of the kennel from adjoining uses.

(C) Specialized Dog Training Facility. A specialized dog training facility shall meet the following requirements:

(1) It shall be located on a tract of land that is a minimum of fifty (50) acres in size;

(2) All buildings and structures associated with the kennel shall be located a minimum of 1,000 feet from any hospital, retirement home or assisted living center building in operation as of the date the certificate of zoning compliance for the kennel is issued;

(3) All buildings and structures associated with the kennel shall be located a minimum of 500 feet from any existing residential structure as of the date the certificate of zoning compliance for the kennel is issued;

(4) All boarding facilities for animals shall be set back a minimum of 200 feet from the property line. Ordinary building setback requirements shall apply to all other kennel facilities, including training areas;

(5) All required State and federal licenses, approvals or permits for site operation must be filed with the town before the kennel receives a certificate of occupancy; and

(6) In addition to the other buffering requirements imposed by this chapter, fencing shall be provided to separate boarding, training, and material storage areas of the kennel from adjoining uses.

§ 152-163.27. Recycling Operations.

(A) Recycling operations conducted wholly within an enclosed building are permitted subject to the following requirements:

(1) All aspects of the recycling operation, except the movement of delivery trucks on and off the site, shall be conducted entirely within an enclosed building. Further, nothing related to the operation, including but not limited to recyclable materials, waste and scrap materials, fluids, and chemicals, may be stored outside. All such items shall be stored within a fully enclosed building;

(2) These facilities may accept materials for recycling that have a commercial value, including but not limited to junked cars, scrap metal and other items typically sent to salvage yards and junk yards. These facilities shall not accept any construction and demolition debris that cannot and will not be recycled, wood debris or other materials suitable for a land-clearing and inert debris landfill, or hazardous wastes;

(3) Materials may be collected for onsite recycling or for shipping to an off-premises location;

(4) All fluids, chemicals, parts or other components that are removed onsite shall be processed and disposed of in strict compliance with applicable federal, State and local laws; and

(5) In addition to the performance standards established in part 3 of this article and any noise ordinances contained in the Aberdeen Code of Ordinances, no facility shall produce noises that can be heard by persons of ordinary hearing and sensitivity standing at the property line of the lot upon which the recycling operation is located.

(B) Recycling operations accessory to a principal use. This use is intended to allow businesses that generate large amounts of recyclable materials to process the materials onsite and/or prepare them for shipping elsewhere. An example of this use would be a cardboard breakdown area located behind a grocery store. These operations are subject to the following requirements:

(1) All materials recycled shall be generated exclusively by the principal onsite use. No off-site materials may be accepted or processed; and

(2) The recycling operation shall be fully screened with either a Type A screen, as described in section 152-308, "Description of Screens and Landscaping," or a wooden fence that completely obscures views of the recycling operation from neighboring properties and public rights-of-way.

(C) Consumer recycling collection centers. These facilities are intended to serve as collection points for household recyclables and small amounts of recyclable materials generated by commercial uses, such as discarded paper and cardboard from offices. These operations are subject to the following requirements:

(1) The facility shall serve solely as a collection and transfer station. No processing of recyclable materials may occur onsite;

(2) No tipping fee or other fees may be charged for the collection of recyclable materials. However, a private solid waste company or local government may limit access to the facility to those persons for whom the company or government provides solid waste and recycling services; and

(3) The facility shall be fully screened with either a Type A screen, as described in section 152-308, “Description of Screens and Landscaping,” or a wooden fence that completely obscures views of the recycling operation from neighboring properties and public rights-of-way.

(D) Industrial recycling collection centers.

§ 152-163.28. Livestock.

This section is adopted pursuant to authority granted by G.S. Chpt. 160A, Art. 19, Part 3 and G.S. § 160A-186.

(A) Livestock may be kept as part of an agricultural operation in accordance with section 152-146, “Table of Permissible Uses,” use # 14.120.

(B) Livestock may also be kept for purposes other than as part of an agricultural operation, provided that such livestock shall be allowed only in the RA, R30-18, R20-16 and C-I zoning districts. Notwithstanding the foregoing, chickens shall be permitted in the zoning districts listed in subsection (G).

(C) In all cases, including as part of agricultural operations, the keeping of livestock shall be restricted as follows:

	Max. Number	Spacing Requirement	Distance from Front Prop. Line	Min. Acreage
Chickens	none	none	none	5,000 ft. ² per animal
All Other Livestock	3	150ft.	200 ft.	1 acre per animal

Table Notes:

1. **Maximum Number of Animals.** Any number of chickens may be kept on a single lot, provided the minimum acreage requirement is met. No more than a total of three (3) of any other kind of livestock may be kept on a single lot. For example, a single lot may have any number of chickens and three (3) cows, or the same lot could have any number of chickens and one (1) cow, one (1) goat and one (1) horse.

2. **Spacing Requirement.** All livestock, except for chickens, shall be located a minimum of 150 feet from any dwelling, except the dwelling occupied by the owner or other keeper of the livestock; school; church or other religious institution; business, except the business of the owner or

other keeper of the livestock; and commercial or professional establishment, except when such uses are owned or operated by the owner or other keeper of the livestock. This requirement shall not apply to chickens.

3. **Distance from Front Property Line.** All livestock, except for shall be located a minimum of 200 feet from the front property line of the property on which the livestock are located (i.e. the property line adjacent to the public right-of-way that serves as the primary access for the property). This requirement shall not apply to chickens.

4. **Minimum Acreage.** A minimum of one (1) acre of land shall be provided for each animal, except for chickens. A minimum of 5,000 square feet per chicken shall be provided. Land used for chickens may also be applied toward the minimum acreage requirement of other animals, provided that the other animals have free access to the land occupied by the chickens. For example, a property having one (1) chicken and one (1) cow must have a minimum of one (1) acre of land of land dedicated to the animals.

(D) A site plan for all stables and other animal housing structures, except chicken coops, shall be submitted to the administrator for review. The administrator shall review the site plan for conformance with the requirements set forth in this section and any other applicable requirements, such as setbacks. If applicable, these structures shall also comply with the requirements of the North Carolina State Building Code. No site plan shall be required for a chicken coop, but it shall be the responsibility of the owner of the coop to confirm that the structure either complies with or is exempt from the requirements of the North Carolina State Building Code.

(E) All stables and other animal housing structures shall be kept in a sanitary manner and as free as possible of noxious odors. Stables and other structures that are cleaned and disinfected once per day shall be presumed to comply with this subsection. The administrator may approve an alternative cleaning schedule upon a showing by the applicant that the alternative schedule complies with established best management practices for the livestock.

(F) All livestock shall be contained within a fence or by other acceptable means. The fence shall be of an appropriate height to protect both the livestock and neighboring properties. A fence built to satisfy the requirements of this subsection need not comply with the requirements of section 152-163.6, "Fences and Walls," unless the fence is also built to provide privacy and/or security for the occupant of the property. A fence built to satisfy the requirements of this subsection shall also comply with the setback requirements of article XII, if the fence exceeds six (6) feet in height and is substantially opaque as provided in subsection 152-186(A)(3).

(G) **Additional Requirements for Chickens.** In addition to the other requirements of this ordinance, the following requirements apply to chickens:

- (1) Chickens are permitted in the RA, R30-18, R20-16, R18-14, R15-12, R10-10, PUD, B-1, B-2, C-I and I-H zoning districts.
- (2) Chickens shall be the only type of domestic fowl permitted pursuant to this ordinance. Other types of domestic fowl are not permitted within the planning and zoning jurisdiction of the town.

- (3) Roosters are prohibited.
- (4) Chickens, roosters and other domestic fowl living outside the planning and zoning jurisdiction of the town may be brought into the town planning and zoning jurisdiction for temporary events such as festivals and other special events, provided that no such fowl shall be allowed to remain within the planning and zoning jurisdiction of the town for more than three (3) days.
- (5) Coops and yarding areas (i.e. the areas where chickens roam outside of the coop) shall be located in back yards or pastures/fields located to the rear of a dwelling. No coop or yarding area may be located in a front or side yard, pasture or field.
- (6) Chickens shall be kept in coops at night time, but they may be allowed to roam during the day within the yarding area.
- (7) Coops and yarding areas shall be fully enclosed by a perimeter fence. Coops shall be located within the yarding area and shall be set back either a minimum of thirty (30) feet from solid perimeter fencing or a minimum of one hundred (100) feet from open wire perimeter fencing.
- (8) Provided that the requirements of this section are met, no certificate of zoning compliance shall be required for coops or yarding areas.
- (9) Nonconforming Situations: The effective date of this ordinance is March 29, 2012. Coops and yarding areas that were lawful prior to the effective date of this ordinance shall be subject to article VIII, “Nonconforming Situations,” of this code. The owners of coops and yarding areas that were unlawful prior to the effective date of the ordinance shall have six (6) months from the effective date to bring said coops and yarding areas into conformity with this ordinance. Roosters living within the planning and zoning jurisdiction of the town as of the effective date of this ordinance may remain until they die, but they shall not be replaced. Chickens or other domestic fowl living within the planning and zoning jurisdiction of the town as of the effective date of this ordinance that are illegal or lawful nonconformities with respect to this ordinance may remain until they die, but they shall not be replaced.

To the extent that any of the requirements of this subsection conflict with the other subsections of Section 152-163.28, the requirements of this subsection shall control.

(H) The provisions of this section shall be enforced pursuant to Article VII, “Enforcement and Review.” (*Amended 3/29/2012*)

§ 152-163.29. Indoor Shooting Ranges. (*Amended 11/17/2014*)

(A) Indoor shooting ranges shall meet or exceed the guidelines and recommendations for design, construction, operation and management provided by the National Rifle Association (NRA), National Shooting Sports Foundation (NSSH), the U.S. Occupational Safety and Health Administration (OSHA), and the National Institute of Occupational Safety and Health (NOISH).

(B) Indoor shooting ranges shall be limited to using .50 caliber ammunition or less.

§152-163.30. Windmills.

(A) **Military Base Notice:** If any proposed change related to windmills would occur on property located within five (5) miles or less from the perimeter boundary of a military base, the town shall provide written notice as provided in section 152-323(E). Proposed changes include, but are not limited to, the submission of an application for a conditional use permit application for a windmill. *(Amended 10/26/2015)*

§ 152-164 through § 152-171. Reserved.

Part 3. Manufacturing/Processing Performance Standards.

§ 152-172. Noise.

(A) No 4.000 classification use in any permissible zoning district may generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the 4.000 use if that use is one of several located on a lot, or (ii) uses located on adjacent lots.

(B) Except as provided in subsection (F) of this section, the table set forth in subsection (E) of this section establishes the maximum permissible noise levels for 4.000 classification uses in the C-I and I-H districts. Measurements shall be taken at the boundary line of the lot where the 4.000 classification use is located, and as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the 4.000 classification use is located.

(C) A decibel is the measure of a unit of sound pressure. Since sound waves having the same decibel level “sound” louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e. whether the pitch of the sound is high or low), an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter.

(D) The standards established in the table set forth in subsection (E) are expressed in terms of the Equivalent Sound Level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at 10-second intervals (see Appendix F-1) and computing the Leq in accordance with the table set forth in Appendix F-2.

(E) Table of Maximum Permitted Sound Levels, dB(A).

Zoning of Lot Where 4.000 Use is Located	Zoning of Adjacent Lot				
	Residential, 7 a.m. – 7 p.m.	Residential, 7 p.m. – 7 a.m.	B-1, HC, GC, B-2, B-3, O-I	C-I	I-H
C-I	50	45	55	60	65
I-H	50	45	60	65	70

(F) Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB(A) in excess of the figures listed in subsection (E) above, except that this higher level of permissible noise shall not apply from 7 p.m. to 7 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.

(G) Noises resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.

§ 152-173. Vibration.

(A) No 4.000 classification use in any permissible business district may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at (i) the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot, or (ii) the lot line if the enterprise generating the vibration is the only enterprise located on a lot.

(B) No 4.000 classification use in a C-I or I-H district may generate any ground-transmitted vibration in excess of the limits set forth in subsection (E) of this section. Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in subsection (E) of this section.

(C) The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.

(D) The vibration maximums set forth in subsection (E) of this section are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D, \text{ where:}$$

- PV* = Particle velocity, in inches-per-second,
- F* = Vibration frequency, in cycles-per-second, and
- D* = Single amplitude displacement of the vibration, in inches.

The maximum velocity shall be the vector sum of the three components recorded.

(E) Table of Maximum Ground-Transmitted Vibration.

Zoning District	PV in Inches-Per-Second, at the Adjacent Lot Line	Residential District
C-I	0.10	0.02
I-H	0.20	0.02

(F) The values stated in subsection (E) above may be multiplied by two (2) for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.

(G) Vibrations resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.

§ 152-174. Odor.

(A) For the purposes of this section, the “odor threshold” is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of a panel of healthy observers.

(B) No 4.000 classification use in any district may generate any odor that reaches the odor threshold, measured at:

- (1) The outside boundary of the immediate space occupied by the enterprise generating the odor if the enterprise is one of several located on a lot, or
- (2) The lot line if the enterprise generating the odor is the only enterprise located on a lot.

§ 152-175. Air Pollution.

(A) Any 4.000 classification use that emits any “air contaminant,” as defined in G.S. § 143-213, shall comply with applicable state standards concerning air pollution, as set forth in G.S. Chpt. 143, Art. 21B, “Air Pollution Control,” and as set forth in any administrative rules promulgated by the North Carolina Department of Environmental Management.

(B) No zoning, special-use, or conditional use permit may be issued with respect to any development covered by subsection (A) above until the North Carolina Department of Environmental Management Division of Air Quality has certified to the permit-issuing authority that the appropriate State permits have been received by the developer, or the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

§ 152-176. Disposal of Liquid Wastes.

No 4.000 classification use in any district may discharge any waste contrary to the provisions of G.S. Chpt. 143, Art. 21, “Water and Air Resources,” and as set forth in any administrative rules promulgated by the North Carolina Department of Environmental Management.

§ 152-177. Electrical Disturbances or Interference.

No 4.000 classification use may:

(A) Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or

(B) Otherwise cause, create, or contribute to the interference with electronic signals (including, but not limited to, those from television, radio, and cellular telephone equipment) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

Part 4. Long Term Maintenance Requirements.

§ 152-178. Long Term Maintenance Requirements.

(A) Purpose and Intent. The initial building construction or development in a community is usually accomplished after a great deal of planning, designing, and implementation. The time and attention to detail given to the initial construction is often the last concentrated effort regarding the total visual effect of the building and building lot or site. While many property owners establish a periodic maintenance program to keep their property in a visually pleasing, physically safe and sanitary condition, some properties are unkempt and are left to visually or physically decay. The Town Board further finds that well-maintained properties generally contribute to the overall appeal of the town and to higher property values in individual neighborhoods. For these reasons, it has been determined that there is a need to set forth regulations to ensure the continuing maintenance of property within the town.

(B) Scope. This section shall apply to all industrial, commercial and multi-family residential uses and shall apply in addition to, and not in lieu of, any requirements imposed elsewhere by this chapter and/or the Aberdeen Code of Ordinances. This section shall not apply to single-family residential uses. Any property located in an industrial or commercial zoning district shall be presumed to be subject to the requirements of this section, but the Administrator may waive the requirements of this section if the property owner can satisfactorily demonstrate that the primary use of the property is actually as a single-family residence.

(C) Property Maintenance Standards. Industrial, commercial and multi-family uses shall meet the following standards:

(1) All buildings on a property shall be maintained in a condition so as to visually appear to be in good repair with regard to the condition of the foundation; the exterior paint or finish; the windows and doors; the roof, gutters and down spouts; accessory buildings; and architectural appurtenances such as chimneys and steps.

(2) All solid waste containers stored outside shall be screened so as to not be visible from public rights-of-way and adjacent properties by means of one or a combination of the following: building positioning; by being placed within a four-sided containment structure made of a material similar in appearance to the exterior finish of the principal building; or by being screened from view by dense vegetative growth. The Administrator may authorize a different screening method if such method will provide a similar level of screening as those methods set forth herein.

(3) All sidewalk, driveway, parking, loading and outside storage areas shall be continuously maintained in a state of good repair without potholes, broken pavement, standing water or other signs of deterioration.

(4) All permanent or long-term outside storage shall be screened from view so as to not be visible from public rights-of-way. Screening may employ such measures as earth berming, vegetative planting, decorative fencing or building positioning.

(5) All fences, walls, lighting, signs, storage structures, mailboxes, postal boxes, newspaper boxes, and other visual physical improvements or appurtenances shall be maintained in a safe, working order and in good appearance, and in conformance with all applicable codes and ordinances.

§ 152-179. Property Owners' Association.

No final plat, site plan, or conditional use permit for which a property owners' association will exist shall be approved until all required legal instruments have been approved by the Town. Draft declarations of restrictive covenants may be submitted at the time of preliminary plat or sketch plan review for review and comment by the town's staff. The conditional use permit required for PUD site plan approval is exempt from this requirement. For a PUD, the property owners' association legal instruments must be submitted and approved as the individual sections/phases of the PUD are approved. For PUDs, the Town staff must approve all legal instruments prior to signature on the final plat for each phase.

§ 152-180. Maintenance of Common Areas and Facilities.

(A) Unless the Town requires that common areas, recreational facilities or open space be dedicated to the Town or agrees to accept an offer of dedication voluntarily made by the developer, such common areas, recreational facilities and open space shall remain under the ownership and control of the developer (or his successor) or a homeowners' association or similar organization that satisfies the criteria established in subsection 152-189(C). If such common areas, recreational facilities and open space are not publicly dedicated, they shall be made available to all residents of the development under reasonable rules and regulations established to encourage and govern the use of such facilities and open space by the residents without payment of separate optional fees or charges other than membership fees in a homeowners' association. Such common areas, recreational facilities and open space may be made available to a limited extent on a fee basis to persons who are not residents of the development where such facilities or open space are located, so long as such use does not become so extensive as to remove the common areas, recreational facilities and open space from the category of an accessory use to a residential development and transform the use to a separate principal use classification.

(B) The person or entity identified in subsection 152-180(A) as having the right of ownership and control over such common areas, recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(C) Homeowners' associations or similar legal entities that, pursuant to subsection 152-180(A), are responsible for the maintenance and control of common areas, recreational facilities and open space, shall be established in such a manner that:

(1) Provisions for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;

(2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;

(3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities; and

(4) The association will establish a capital fund for the maintenance and upkeep of common areas and facilities and a method of contributing to that fund which will spread the costs of said maintenance and upkeep to the residents over a number of years.