

Chapter

- 150. BUILDING REGULATIONS**
- 151. FLOOD DAMAGE PREVENTION**
- 152. SUBDIVISION REGULATIONS**
- 153. ZONING**

## **CHAPTER 150: BUILDING REGULATIONS**

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Section

***Registration of Mobile Homes***

- 150.01 County registration of mobile homes
- 150.02 Town to abide by county ordinance in § 150.01

***General Building Regulations***

- 150.15 National Building Code adopted
- 150.16 Gasoline storage tank

***Minimum Housing***

- 150.30 Purpose
- 150.31 Definitions
- 150.32 Minimum standards of fitness for dwellings and dwelling units
- 150.33 Structural condition
- 150.34 Basic plumbing, heating, and electrical equipment and facilities
- 150.35 Ventilation
- 150.36 Space, use and location
- 150.37 Safe and sanitary maintenance
- 150.38 Control of insects, rodents and infestations
- 150.39 Applicable to rooming houses
- 150.40 Responsibilities of owners and occupants
- 150.41 Powers and duties of the Code Enforcement Officer
- 150.42 Inspections; duties of owners and occupants
- 150.43 Procedure for enforcement
- 150.44 Service of complaints and orders
- 150.45 Rem action by Inspector; placarding
- 150.46 Costs; a lien on premises
- 150.47 Enforcement of order
- 150.48 Alternate remedies
- 150.49 Board of Commissioners to hear appeals
- 150.50 Conflict with other provisions
- 150.51 Violations; penalty

Saratoga, NC Code of Ordinances

150.52 Extraterritorial provisions

*Abandoned Structures*

150.60 Definitions

150.61 Finding; intent

150.62 Duties of the Code Enforcement Officer and others

150.63 Powers of the Code Enforcement Officer

150.64 Standards for enforcement

150.65 Procedure for enforcement

150.66 Violations; penalty

150.67 Conflict with other provisions

*Insulation and Energy Conservation*

150.80 Authority

150.81 Required license

150.99 Penalty

***Cross-reference:***

*Subdivision regulations, see Ch. 152*

*Zoning, see Ch. 153*

## **REGISTRATION OF MOBILE HOMES**

### **§ 150.01 COUNTY REGISTRATION OF MOBILE HOMES.**

Wilson County has adopted an ordinance providing for the annual registration of house trailers, mobile homes and similar vehicular structures and the evidence of registration to be exhibited on the said vehicle.

(1973 Code, Ch. J, Art. I, § 1)

### **§ 150.02 TOWN TO ABIDE BY COUNTY ORDINANCE IN § 150.01.**

The governing body of the town hereby agrees, in all respects, to the ordinance adopted by the county providing for the annual registration of house trailers, mobile homes and similar vehicular structures, and that the issuance of evidence of registration to be exhibited upon said vehicles, and agrees further that the said ordinance shall operate with full force and effect in the town in accordance with the laws for such cases made and provided, to wit, G.S. § 153-9(55).

(1973 Code, Ch. J, Art. I, § 2)

## **GENERAL BUILDING REGULATIONS**

**§ 150.15 NATIONAL BUILDING CODE ADOPTED.**

The North Carolina State Building Code, most current edition, and the Uniform Residential Building Code found therein is hereby adopted as the official Building Code of the town.

(1973 Code, Ch. J, Art. II, § 1)

**§ 150.16 GASOLINE STORAGE TANK.**

(A) It shall be unlawful for any person to construct or erect any storage tank for gasoline oil or other combustible or inflammable materials, containing or capable of containing more than 100 gallons of gasoline or 300 gallons of residential heating oil or fuel, unless the top of such tank or container is buried at least two feet below the surface of the ground at that point, and unless a permit for such construction or erection or excavation shall be first obtained from the Town Clerk.

(B) The Clerk shall not issue such a permit unless directed by the Board of Commissioners.

(1973 Code, Ch. J, Art. II, § 2) Penalty, see § 150.99

**MINIMUM HOUSING**

**§ 150.30 PURPOSE.**

(A) Pursuant to G.S. § 160A-441, it is hereby declared that dwellings exist in the town that are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town, as authorized by G.S. Chapter 160A, Article 19, Part 6 (§§ 160A-441 et seq.), it is the purpose of this subchapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings for human habitation, as expressly authorized by G.S. § 160A-444.

(Ord. passed 4-6-2016)

**§ 150.31 DEFINITIONS.**

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

**BASEMENT.** A portion of a dwelling that is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Saratoga, NC Code of Ordinances

**CELLAR.** A portion of a dwelling that is located partly or wholly underground, having adequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

**DETERIORATED.** A dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the standards established by this subchapter, at a cost not in excess of 50% of its value, as determined by finding of the Officer.

**DILAPIDATED.** A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all the minimum standards established by this subchapter, except at a cost in excess of 50% of its value, as determined by finding of the Officer.

**DWELLING.** Any building, structure, or part thereof, that is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. "Temporary housing," as hereinafter defined, shall not be regarded as a **DWELLING**. The term shall include within its meaning the term "rooming house unit," as hereinafter defined.

**DWELLING UNIT.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating.

**EXTERMINATION.** The control and elimination of insects, rodents, or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal, pest-elimination methods approved by the Officer.

**GARBAGE.** The organic waste resulting from the handling, preparation, cooking and consumption of food.

**HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, rooming or squatting purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

**INFESTATION.** The presence, within or around a dwelling, or any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

**MULTIPLE DWELLING.** Any dwelling containing more than two dwelling units.

**OCCUPANT.** Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

**OFFICER.** The Code Enforcement Officer of the town, or any authorized agent of the Officer. In lieu of a Code Enforcement Officer, the town may utilize the services of the Wilson County Inspections Department.

**OPERATOR.** Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

**OWNER.** Any person who, along with others, jointly or severally:

- (1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or
- (2) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or
- (3) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual

owner shall be bound to comply with the provisions of this subchapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

**PARTY IN INTEREST** or **PARTIES IN INTEREST**. All persons who have interests of record in a dwelling, dwelling unit or rooming unit, and any persons who are in possession thereof.

**PERSON**. Any individual, corporation, firm, partnership, association, organization or other legal entity.

**PLUMBING**. All of the following supplied facilities and equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, showers, baths, installed clothes washing machines, catch basins, drains, vents and other similar supplied fixtures, together with all connections to water, sewer or gas lines.

**PUBLIC AUTHORITY**. The Town Housing Authority or any officer who is in charge of any department or branch of the government of town or of the county or the state relating to health, fire, building regulations or other activities concerning dwellings in the town.

(Ord. passed 4-6-2016)

### **§ 150.32 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.**

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 150.30 through 150.52. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit that does not comply with all of the requirements and minimum standards of fitness for human habitation of §§ 150.30 through 150.52.

(Ord. passed 4-6-2016)

### **§ 150.33 STRUCTURAL CONDITION.**

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

(A) Walls or partitions or supporting members, sills, joists, rafters of other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks that might admit rodents.

(B) Floors or roof shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and

cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashing, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.

(H) There shall be no chimneys or parts thereof that are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors or wood floors on the ground.  
(Ord. passed 4-6-2016)

### **§ 150.34 BASIC PLUMBING, HEATING, AND ELECTRICAL EQUIPMENT AND FACILITIES.**

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

(1) *Central and electric heating system.* Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms, and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70°F, measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70°F, measured three feet above the floor during ordinary winter conditions.

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room, and furnace room, at least one supplied ceiling or wall-type electric light fixture. When a ceiling or wall-type electric light fixture is not provided in a habitable room, then each such habitable room shall contain at least floor or wall-type electric convenience receptacles.

Saratoga, NC Code of Ordinances

(2) Every public hall and stairway in every multiple dwelling shall be adequately lit by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code.

(Ord. passed 4-6-2016)

**§ 150.35 VENTILATION.**

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room, and such light-obstructing structures are located less than five feet from the window and extend to a level above (that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors, and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of the skylight shall equal at least 15% of the total floor area of that room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight that can easily be opened, or such device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size, or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. passed 4-6-2016)

**§ 150.36 SPACE, USE AND LOCATION.**

(A) *Room sizes.*

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.

Saratoga, NC Code of Ordinances

(B) *Ceiling height.* At least one half of the floor area of every habitable room shall have a ceiling height of not less than seven feet, six inches.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(D) *Cellar.* No cellar shall be used for living purposes.

(E) *Basement.* A basement shall not be used for living purposes, unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms;

(3) The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the window or windows face a stairwell, window well or accessway.

(Ord. passed 4-6-2016)

**§ 150.37 SAFE AND SANITARY MAINTENANCE.**

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent-proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent-proof; shall be kept in sound condition and in good repair; and shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon.

(C) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon, and shall be kept in sound condition and in good repair.

(D) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent-proof, and shall be kept in sound working condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water, and will permit such floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility required under this subchapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded in order to obtain through drainage and to prevent the accumulation of stagnant water.

(H) *Weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth detrimental to health.



(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.  
(Ord. passed 4-6-2016)

**§ 150.38 CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.**

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device opening to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement that might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever their dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish, as required by this code and any other applicable ordinances of the town; and the owner, operator or agent in control of the dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by this code or any other applicable ordinance of the town.  
(Ord. passed 4-6-2016)

**§ 150.39 APPLICABLE TO ROOMING HOUSES.**

(A) *Applications.* All of the provisions of this subchapter shall be applicable to rooming houses, and to every person who operates a rooming house or who occupies or lets to another for occupancy in any rooming house, except as provided in the following divisions of this section.

(B) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system, and in good working condition, shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway, and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and

bathhtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(C) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes alone by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.

(D) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house. The operator shall be further responsible for the sanitary maintenance of the entire premises, where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(E) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house, and within a room or rooms that afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein.

(Ord. passed 4-6-2016)

#### **§ 150.40 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

(A) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and conditions that part of the dwelling unit and premises thereof that he or she occupies and controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all of their rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition, and shall be responsible for the exercise of reasonable care in their proper use and operation.

(E) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment or any part of the structure of the dwelling or dwelling unit.

(Ord. passed 4-6-2016)

#### **§ 150.41 POWERS AND DUTIES OF CODE ENFORCEMENT OFFICER.**

(A) The Code Enforcement Officer is hereby designated as the Officer to enforce the provisions of this subchapter and to exercise the duties and powers herein prescribed. The

## Saratoga, NC Code of Ordinances

Officer is authorized to exercise such powers as may be necessary or convenient to effectuate the purpose and to carry out the provisions of this subchapter. In lieu of a Code Enforcement Officer, the town may utilize the services of the Wilson County Inspections Department.

(B) The Officer shall have the following powers and duties:

(1) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation, and to repair, close or demolish such dwellings and dwelling units;

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of deteriorated housing;

(3) To keep a record of the results of inspections made under this subchapter, and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

(4) To administer oaths and affirmations, examine witnesses and receive evidence;

(5) To enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in accordance with state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(6) To appoint and fix the duties of such officers, agents and employees as he or she deems necessary to assist in carrying out the purpose of this subchapter, and to delegate any of his or her functions and powers to such officers, agents and employees; and

(7) To perform such other duties as may be prescribed herein or by the Board of Commissioners.

(Ord. passed 4-6-2016)

### **§ 150.42 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.**

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises to effect compliance with the provisions of this subchapter, or with any lawful order issued pursuant to the provisions of this subchapter. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Inspector free access to such dwelling, dwelling unit or rooming unit, and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of that dwelling or dwelling unit, and its premises, at all reasonable times for the purposes of making such repairs or alterations as are necessary to effect compliance with the provisions of this subchapter, or with any lawful order issued pursuant to the provisions of this subchapter.

(Ord. passed 4-6-2016)

### **§ 150.43 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Inspector by a public authority, or by at least five residents of the town, charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector,

upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest in, such dwelling or dwelling unit, a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place within the town therein fixed, not less than ten days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint, to appear in person or otherwise, and to give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the dwelling. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing.* After such notice and hearing, the Inspector shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(1) If the Inspector determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of that determination, and shall issue and cause to be served upon the owner thereof an order, directing and requiring the owner to repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this subchapter within a specified period of time, not to exceed 90 days. The order may also direct and require the owner to vacate and close the dwelling or dwelling unit until such repairs, alterations and improvements have been made.

(2) If the Inspector determines that the dwelling is dilapidated, he or she shall state, in writing, his or her findings of fact to support that determination, and shall issue and cause to be served upon the owner thereof, an order directing and requiring the owner to either repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this subchapter, or else to vacate and remove or demolish the same within a specified period of time, not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Inspector to vacate and close, and remove or demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners, at its next regular meeting, a resolution directing the Town Attorney to petition the Superior Court for an order directing the owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (A), the Inspector shall submit to the Board of Commissioners an ordinance ordering the Inspector to cause the dwelling or dwelling unit to be repaired, altered, improved or demolished, as provided in the original order of the Inspector, and pending its removal or demolition, to placard the dwelling as provided by G.S. § 160A-443 and § 150.45. This section shall be recorded in the office of the County Register of Deeds, and shall be indexed in the name of the property owner in the grantor index.

(D) *Appeals from orders of the Inspector.* An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or the service of the order, and shall be taken by filing with the Inspector and with the Assistant Town Administrator, a notice of appeal specifying the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board of Commissioners all the papers constituting the record for the decision being appealed. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, the Inspector's decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board of Commissioners, after the notice of appeal is filed with the Inspector, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Inspector, by the Board of Commissioners, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (E) of this section.

(1) The Board of Commissioners shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by an agent or attorney. The Board of Commissioners may reverse or affirm, in whole or in part, or may modify the decision or order appealed, and may make the decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector. In passing upon appeals, the Board of Commissioners shall also have power, in any case where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this subchapter, to adapt application of this subchapter to the necessities of the case to the ends that the spirit of this subchapter shall be observed, public safety and welfare secured, and substantial justice done.

(2) Every decision of the Board of Commissioners shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board of Commissioners, but not otherwise.

(E) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board of Commissioners shall have the right, within 30 days after issuance of the order or the rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector, pending a final disposition of the cause, as provided by G.S. 160A-446(f).

(F) *Removal of nuisances.* Whenever a nuisance, as defined in Chapter 92, is declared by the Housing Inspector, the enforcement procedures shall be as set forth in Chapter 92. (Ord. passed 4-6-2016)

#### **§ 150.44 SERVICE OF COMPLAINTS AND ORDERS.**

(A) Complaints or orders issued by a public officer pursuant to this subchapter shall be served upon persons either in person or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail.

Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public office in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town, at least once no later than the time at which personal service would be required under the provisions of this part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.  
(Ord. passed 4-6-2016)

#### **§ 150.45 IN REM ACTION BY INSPECTOR; PLACARDING.**

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing the owner to do so, as provided by G.S. § 160A-443(5) and § 150.43(C), the Inspector shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this subchapter, vacated and closed, or removed or demolished, as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute either a misdemeanor or, at the election of the town, shall subject the offender to a civil penalty as hereinafter provided.

(B) Each such ordinance shall be recorded in the office of the County Register of Deeds, wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).  
(Ord. passed 4-6-2016)

#### **§ 150.46 COSTS; A LIEN ON PREMISES.**

(A) As provided by G.S. 160A-446(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to § 150.45, shall be a lien against the real property upon which such cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Ch. 160A, Art. 10 (§§ 160A-216 et seq.).

(B) If the dwelling is removed or demolished by the Inspector, he or she shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Superior Court by the



Inspector, secured in a manner directed by the Court, and disbursed by the Court to the persons found to be entitled thereto by final order or decree of the Court. Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances, and to cause their removal or abatement by summary proceedings, or otherwise.  
(Ord. passed 4-6-2016)

**§ 150.47 ENFORCEMENT OF ORDER.**

If any occupant fails to comply with an order to vacate a dwelling, the Inspector may file a civil action in the name of the town to remove the occupant. The action to vacate the dwelling shall be in the nature of summary ejectment, and shall be commenced by filing a complaint naming as parties-defendant any person occupying the dwelling. The Clerk of the Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place, not to exceed ten days from the issuance of the summons, to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Board of Commissioners pursuant to § 150.43 authorizing the Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated, and shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of the judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this section, unless the occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Board of Commissioners has ordered the public officer to proceed to exercise his or her duties under § 150.42 to vacate and close or to remove and demolish the dwelling.  
(Ord. passed 4-6-2016)

**§ 150.48 ALTERNATIVE REMEDIES.**

Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances, and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy provided herein or in other ordinances or laws. Major violations shall be immediately referred to the proper code enforcement official for remedy.  
(Ord. passed 4-6-2016)

**§ 150.49 BOARD OF COMMISSIONERS TO HEAR APPEALS.**

All appeals that may be taken from decisions or orders of the Inspector pursuant to § 150.43(D) shall be heard and determined by the Board of Commissioners. As the appeals body,

the Board of Commissioners shall have power to fix the times and places for its meetings, to adopt necessary rules of procedure and any other rules and regulations that may be necessary or desirable for the proper discharge of its duties. The Board of Commissioners shall perform the duties prescribed by § 150.43(D) and shall keep accurate minutes of all its proceedings.  
(Ord. passed 4-6-2016)

**§ 150.50 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision, standard or requirement of this subchapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision that establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.  
(Ord. passed 4-6-2016)

**§ 150.51 VIOLATIONS; PENALTY.**

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or remove or demolish the same, upon an order of the Inspector duly made and served as herein provided, within the time specified in the order, and each day that failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit with respect to which an order has been issued pursuant to § 150.43 to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement, or its vacation and closing, and each day that occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this subchapter shall constitute either a misdemeanor or, at the election of the town, shall subject the offender to a civil penalty, upon the issuance of a citation for the violation. The procedure for issuance of a citation with escalating fines shall be as follows:

- (1) First offense: issue warning citation and hold hearing.
- (2) If offense is determined to be in violation and violations continue with escalating fines, such fines shall be issued as follows:

Per day for each ten days of violation	\$25
Per day for each of the next ten days of violation	\$50
Per day for each day of violation thereafter	\$100

(Ord. passed 4-6-2016)

**§ 150.52 EXTRATERRITORIAL PROVISION.**

The provisions of this subchapter shall be applicable not only within the corporate limits of the town, but also within its extraterritorial jurisdiction. It is the intent of this provision that the extraterritorial jurisdiction of the minimum housing code, and of the Building Inspector enforcing same, shall be identical with that of the zoning ordinance, and the description of the



extraterritorial boundaries, together with any amendments thereto, are incorporated by reference herein. A copy of the aforesaid delineation shall also be retained permanently in the office of the Assistant Town Administrator and is available for inspection by the public.

(Ord. passed 4-6-2016)

## **ABANDONED STRUCTURES**

### **§ 150.60 DEFINITIONS.**

The same definitions contained in § 150.31 shall apply in the interpretation and enforcement of this subchapter.

(Ord. passed 4-6-2016)

### **§ 150.61 FINDING; INTENT.**

(A) It is hereby found that there exist within the town abandoned structures that the Board of Commissioners finds to be hazardous to the health, safety and welfare of the residents of the town due to:

- (1) The attraction of insects or rodents.
- (2) Conditions creating a fire hazard.
- (3) Dangerous conditions constituting a threat to children.
- (4) Frequent use by vagrants as living quarters in the absence of sanitary

facilities.

(B) Therefore, pursuant to the authority granted by G.S. § 160A-441 et seq., it is the intent of this subchapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures, as are set forth in § §§ 150.41 through 150.51, for the repair, closing or demolition of dwellings unfit for human habitation.

(Ord. passed 4-6-2016)

### **§ 150.62 DUTIES OF THE CODE ENFORCEMENT OFFICER AND OTHERS.**

(A) The Code Enforcement Officer is hereby designated as the town officer to enforce the provisions of this subchapter. In lieu of a Code Enforcement Officer, the town may utilize the services of the Wilson County Inspections Department. It shall be the duty of the Code Enforcement Officer:

- (1) To locate abandoned structures within the town and determine which structures are in violation of this subchapter;
- (2) To take such action pursuant to this subchapter as maybe necessary to provide for the repair, closing or demolition of such structures;
- (3) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter;

(4) To perform such other duties as may be prescribed herein or assigned by the Board of Commissioners.

(B) Employees of the Fire Department and Police Department shall make a report, in writing, to the Housing Inspector of each building or structure they know or suspect may be in violation of this subchapter. Any such report shall be delivered to the Housing Inspector within 48 hours of the discovery of such building or structure by such employee of the Fire and Police Departments. (Ord. passed 4-6-2016)

### **§ 150.63 POWERS OF THE CODE ENFORCEMENT OFFICER.**

The Code Enforcement Officer is authorized to exercise such powers as maybe necessary to carry out the intent and the provisions of this subchapter, including the following powers (in addition to others herein granted):

- (A) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter;
  - (B) To enter upon premises for the purpose of making inspections;
  - (C) To administer oaths and affirmations, examine witnesses and receive evidence;
  - (D) To designate such other officers, agents and employees of the town as he or she deems necessary to carry out the provisions of this subchapter.
- (Ord. passed 4-6-2016)

### **§ 150.64 STANDARDS FOR ENFORCEMENT.**

(A) Every abandoned structure within the town shall be deemed in violation of this subchapter whenever it constitutes a hazard to the health, safety or welfare of the town citizens as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children;
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this subchapter, the Housing Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof that might attract or admit rodents and insects, or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure that might attract rodents and insects, or become breeding places for rodents and insects;
- (3) Violations of the State Building Code that constitute a fire hazard in the structure;
- (4) The collection of garbage, rubbish or combustible material that constitutes a fire hazard in the structure;

- (5) The use of the structure or nearby grounds or facilities by children as a play area;
  - (6) Violations of the State Building Code or §§ 150.32 through 150.38 that might result in danger to children using the structure or nearby grounds or facilities as a play area;
  - (7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.
- (Ord. passed 4-6-2016)

**§ 150.65 PROCEDURE FOR ENFORCEMENT.**

Whenever a petition is filed with the Housing Inspector by a public authority or by at least five residents of the town charging that any abandoned structure is in violation of this subchapter, or whenever the Housing Inspector determines, upon inspection, that any abandoned structure is in violation of this subchapter, he or she shall, by service of a complaint and notice of hearing, initiate the same procedure for enforcement as is contained in § 150.43. In all relevant respects, the procedure for enforcement of this subchapter shall be identical to that contained in §§ 150.41 through 150.51.

(Ord. passed 4-6-2016)

**§ 150.66 VIOLATION; PENALTY.**

(A) It shall be unlawful for the owner of any abandoned structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate, close and remove or demolish the same, upon order of the Housing Inspector duly made and served, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. In all relevant respects, penalties for violation of this subchapter shall be identical to that contained in §§ 150.41 through 150.51 and 150.99.

(B) As provided by § 150.51, the violation of any provision of this subchapter shall constitute a misdemeanor.

(Ord. passed 4-6-2016)

**§ 150.67 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision of this subchapter is found to be in conflict with the provision of any other ordinance of the town, the provision that establishes the higher standard or more strict requirement for the promotion and protection of the health, safety and welfare of the residents of the town shall prevail.

(Ord. passed 4-6-2016)

**INSULATION AND ENERGY CONSERVATION**

**§ 150.80 AUTHORITY.**

This subchapter is adopted pursuant to Chapter 703, North Carolina Session Laws of 1977 and G.S. § 160A-194.  
(1973 Code, Ch. J, Art. IV, § 1)

**§ 150.81 REQUIRED LICENSE.**

On or after January 1, 1973, no person, firm or corporation may for any consideration install, alter or restore within the town any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization standards who is not either:

- (A) Licensed as a contractor to do the proposed work under G.S. Chapter 87;
- (B) Working under the supervision of a registered architect or professional engineer;

or

- (C) An owner working upon his or her own building.

(1973 Code, Ch. J, Art. IV, § 2) (Ord. passed 3-2-2016)

**§ 150.99 PENALTY.**

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person, firm or corporation violating the provisions of §§ 150.80 and 150.81 shall be subject to all the applicable punishments, penalties and equitable relief provided for by G.S. § 160A-175 and Chapter 703, North Carolina Session Laws of 1977.

(1973 Code, Ch. J, Art. IV, § 10)

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## **CHAPTER 151: FLOOD DAMAGE PREVENTION**

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Section

***Statutory Authorization, Findings of Fact, Purpose and Objectives***

- 151.001 Statutory authorization
- 151.002 Findings of fact
- 151.003 Statement of purpose
- 151.004 Objectives

***General Provisions***

- 151.015 Definitions
- 151.016 Lands to which this chapter applies
- 151.017 Basis for establishing the areas of special flood hazard
- 151.018 Establishment of floodplain development permit
- 151.019 Compliance

Saratoga, NC Code of Ordinances

- 151.020 Abrogation and greater restrictions
- 151.021 Interpretation
- 151.022 Warning and disclaimer of liability

*Administration*

- 151.035 Designation of Floodplain Administrator
- 151.036 Floodplain development permit and certification requirements
- 151.037 Duties and responsibilities of the Floodplain Administrator
- 151.038 Corrective procedures
- 151.039 Variance procedures

*Provisions for Flood Hazard Reduction*

- 151.050 General standards
- 151.051 Specific standards
- 151.052 Standards for floodplains without established base flood elevations
- 151.053 Standards for floodplains with BFE but without established floodways or non-encroachment
- 151.054 Floodways and non-encroachment areas

*Legal Status Provisions*

- 151.070 Effect on rights and liabilities under the existing flood damage prevention ordinance
- 151.071 Effect upon outstanding building permits
- 151.072 Effective date
  
- 151.999 Penalty

**STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**§ 151.001 STATUTORY AUTHORIZATION.**

(A) The Legislature of the State of North Carolina has in G.S. Chapter 143, Article 21, Part 6; G.S. Chapter 160A, Article 19, Parts 3, 5, and 8; and G.S. Chapter 160A, Article 8, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

(B) Therefore, the Town Council does ordain as follows.  
(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

**§ 151.002 FINDINGS OF FACT.**

(A) The flood prone areas within the jurisdiction of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and

relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.  
(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### **§ 151.003 STATEMENT OF PURPOSE.**

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

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### **§ 151.004 OBJECTIVES.**

The objectives of this chapter are to:

(A) Protect human life, safety, and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(F) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(G) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## **GENERAL PROVISIONS**

**§ 151.015 DEFINITIONS.**

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

**ACCESSORY STRUCTURE (APPURTENANT STRUCTURE).** A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

**ADDITION (TO AN EXISTING BUILDING).** An extension or increase in the floor area or height of a building or structure.

**APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

**AREA OF SHALLOW FLOODING.** A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD.** See **SPECIAL FLOOD HAZARD AREA (SFHA)**.

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE).** A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "special flood hazard area", it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard", establishes the "regulatory flood protection elevation".

**BASEMENT.** Any area of the building having its floor subgrade (below ground level) on all sides.

**BUILDING.** See **STRUCTURE**.

**CHEMICAL STORAGE FACILITY.** A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

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

**DEVELOPMENT ACTIVITY.** Above activity which will necessitate a floodplain development permit.

**DISPOSAL.** As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**ELEVATED BUILDING.** A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**ENCROACHMENT.** The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

source.

**FLOOD BOUNDARY and FLOODWAY MAP (FBFM).** An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

**FLOOD HAZARD BOUNDARY MAP (FHBM).** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as Zone A.

**FLOOD INSURANCE.** The insurance coverage provided under the National Flood Insurance Program.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

**FLOOD INSURANCE STUDY (FIS).** An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

**FLOOD PRONE AREA.** See **FLOODPLAIN**.

**FLOOD ZONE.** A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

**FLOODPLAIN.** Any land area susceptible to being inundated by water from any source.

**FLOODPLAIN ADMINISTRATOR.** Is the individual appointed to administer and enforce the floodplain management regulations.

**FLOODPLAIN DEVELOPMENT PERMIT.** Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

**FLOODPLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**FLOODPLAIN MANAGEMENT REGULATIONS.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local



regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**FLOODPROOFING.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**FLOODWAY ENCROACHMENT ANALYSIS.** An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway or non-encroachment boundaries and base flood elevations; the evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

**FREEBOARD.** The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE) plus the freeboard establishes the regulatory flood protection elevation.

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

**HAZARDOUS WASTE MANAGEMENT FACILITY.** As defined in G.S. Chapter 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**HIGHEST ADJACENT GRADE (HAG).** The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

**HISTORIC STRUCTURE.**

- (1) Any structure that is:
  - (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
  - (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
  - (d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program".

(2) **CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAMS** are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**LOWEST ADJACENT GRADE (LAG).** The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE.** The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

**MEAN SEA LEVEL.** For purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

**NEW CONSTRUCTION.** Structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

**NON-ENCROACHMENT AREA.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

**POST-FIRM.** Construction or other development for which the "start of construction" occurred on or after the effective date of the initial flood insurance rate map.

**PRE-FIRM.** Construction or other development for which the "start of construction" occurred before the effective date of the initial flood insurance rate map.

**PRINCIPALLY ABOVE GROUND.** At least 51% of the actual cash value of the structure is above ground.

**PUBLIC SAFETY** and/or **NUISANCE.** Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**RECREATIONAL VEHICLE (RV).** A vehicle, which is:

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

**REFERENCE LEVEL.** The top of the lowest floor for structures within special flood hazard areas designated as Zone AE, A, A99 or AO.

**REGULATORY FLOOD PROTECTION ELEVATION.** The “base flood elevation” plus the “freeboard”. In the “special flood hazard areas” where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In “special flood hazard areas” where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

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

**RIVERINE.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SALVAGE YARD.** Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**SOLID WASTE DISPOSAL FACILITY.** Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

**SOLID WASTE DISPOSAL SITE.** As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**SPECIAL FLOOD HAZARD AREA (SFHA).** The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 151.017.

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

**STRUCTURE.** A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL IMPROVEMENT**. **SUBSTANTIAL DAMAGE** also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

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

- (1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure and the alteration is approved by variance issued pursuant to § 151.039.

***VARIANCE.*** A grant of relief from the requirements of this chapter.

***VIOLATION.*** The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 151.035 through 151.039 and §§ 151.050 through 151.054 is presumed to be in violation until such time as that documentation is provided.

***WATER SURFACE ELEVATION (WSE).*** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

***WATERCOURSE.*** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. ***WATERCOURSE*** includes specifically designated areas in which substantial flood damage may occur. (Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## **§ 151.016 LANDS TO WHICH THIS CHAPTER APPLIES.**

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs), of the town. (Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## **§ 151.017 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

(A) The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its flood insurance study (FIS) for Wilson County, dated April 16, 2013 and its accompanying Flood Insurance Rate Map Panels (3648K, 3668, 3750K, and 3760), including any digital data developed as part of the FIS, which are adopted by reference and declared to be a part of this chapter. Future revisions to the FIS or FIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared to be part of this ordinance. Subsequent revisions to the FIRM should be adopted within six months.

(B) The initial Flood Insurance Rate Map for Wilson County, dated January 6, 1983.

(C) The initial Flood Insurance Rate Map for the Town of Saratoga, dated November 3, 2004.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

**§ 151.018 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of § 151.017.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

**§ 151.019 COMPLIANCE.**

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

(Ord. passed 10-27-2004; Ord. passed 3-6-2013) Penalty, see § 151.999

**§ 151.020 ABROGATION AND GREATER RESTRICTIONS.**

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

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

**§ 151.021 INTERPRETATION.**

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

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

**§ 151.022 WARNING AND DISCLAIMER OF LIABILITY.**

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

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## ADMINISTRATION

### § 151.035 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Mayor or designee, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this chapter. (Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### § 151.036 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 151.017, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 151.017;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 151.017;

(e) The base flood elevation (BFE) where provided as set forth in §§ 151.017, 151.037 or 151.052;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(g) The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be floodproofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(3) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

Saratoga, NC Code of Ordinances

(4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with § 151.051(D)(3) when solid foundation perimeter walls are used in Zones AE, A, or AO.

(5) Usage details of any enclosed areas below the lowest floor.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of § 151.051(F) and (G) are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements.* The Floodplain development permit shall include, but not be limited to:

(1) A description of the development to be permitted under the floodplain development permit.

(2) The special flood hazard area determination for the proposed development in accordance with available data specified in § 151.017.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in Zones AE, A, or AO.

(8) Limitations of below BFE enclosure uses (if applicable). (I.e., parking, building access and limited storage only).

(C) *Certification requirements.*

(1) *Elevation certificates.*

(a) An elevation certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the

beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An elevation certificate (FEMA Form 81-31) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final as-built elevation certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) *Floodproofing certificate.* If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 83-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) *Elevation of chassis, certification required.* If a manufactured home is placed within Zone AE, A, or AO and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of § 151.051(C)(2).

(4) *Watercourse, altered or relocated.* If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.



(5) *Certification exemptions.* The following structures, if located within Zone AE, A, or AO, are exempt from the elevation/floodproofing certification requirements specified in divisions (C)(1) and (2) above:

- (a) Recreational vehicles meeting requirements of § 151.051(F)(1);
- (b) Temporary structures meeting requirements of § 151.051(G); and
- (c) Accessory structures less than 150 square feet meeting

requirements of § 151.051(H).

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

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the North Carolina Building Code and this chapter is required. (Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### **§ 151.037 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

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

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

(B) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(C) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

Saratoga, NC Code of Ordinances

(E) Prevent encroachments into floodways or non-encroachment areas unless the certification and flood hazard reduction provisions of § 151.054 are met.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of § 151.036(C).

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of § 151.036(C).

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of § 151.036(C).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of §§ 151.036(C) and 151.051(B).

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this subchapter.

(K) When base flood elevation (BFE) data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to § 151.052(B)(2), in order to administer the provisions of this chapter.

(L) When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of § 151.017, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.

(M) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

(N) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in

writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of § 151.038.

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of § 151.017, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(V) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).  
(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### **§ 151.038 CORRECTIVE PROCEDURES.**

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 45 calendar days, nor more than 90 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013) Penalty, see § 151.999

#### **§ 151.039 VARIANCE PROCEDURES.**

(A) The Board of Adjustment as established by the town, hereinafter referred to as the Appeal Board, shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in § 151.015, provided provisions of § 151.039(I)(2), (3) and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(3) Any other type of development, provided it meets the requirements of this section.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

Saratoga, NC Code of Ordinances

(5) The necessity to the facility of a waterfront location as defined under § 151.015 as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(I) The following are conditions for variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense,

create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the special flood hazard area.

(3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

(4) The use complies with all other applicable federal, state and local laws.

(5) The town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## PROVISIONS FOR FLOOD HAZARD REDUCTION

### § 151.050 GENERAL STANDARDS.

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this chapter.

(I) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(J) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 151.039(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of § 151.036(C).

(K) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(M) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(N) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(O) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(P) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## **§ 151.051 SPECIFIC STANDARDS.**

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in § 151.017 or § 151.052, the following provisions, in addition to the provisions of § 151.050, are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.015.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.015. Structures located in Zones AE, A, or AO may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together

with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 151.036(C), along with the operational plan and the inspection and maintenance plan.

(C) *Manufactured homes.*

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 151.015.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the *State of North Carolina Regulations for Manufactured Homes* adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of § 151.051(D).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

(3) Shall include, in Zones AE, A, or AO, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;



Saratoga, NC Code of Ordinances

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(E) *Additions/improvements.*

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) *Recreational vehicles.*

(1) *Temporary placement.* Recreational vehicles placed temporarily in flood hazard areas shall:

(a) Be on site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use (a recreational vehicle ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick

Saratoga, NC Code of Ordinances

disconnect type utilities, and security devices has no permanent attachments such as additions, rooms stairs, decks, and porches).

(2) *Permanent placement.* Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.

(G) *Temporary non-residential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) *Accessory structures.*

(1) When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with the provisions of § 151.050(A);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of § 151.050(D); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of § 151.051(D)(3).

(2) An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$10,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of § 151.051(B). Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 151.036(C).

(I) *Tanks.* When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

(1) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and

hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(2) *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(3) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of § 151.036(B) shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(4) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:  
(a) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) *Other development.*

(1) Fences in a regulated floodway or non-encroachment area that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall require a floodway encroachment analysis and meet the limitations of § 151.054.

(2) Retaining walls, sidewalks, or driveways in a regulated floodway or non-encroachment area. Retaining walls, sidewalks, or driveways that involve the placement of fill in a regulated floodway or non-encroachment area shall require a floodway encroachment analysis and meet the limitations of § 151.054.

(3) Roads or watercourse crossings in a regulated floodway or non-encroachment area. Roads or watercourse crossings, including roads, bridges, culverts, low-water crossings or similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into a regulated floodway or non-encroachment area shall require a floodway encroachment analysis and meet the limitations of § 151.054.  
(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## **§ 151.052 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.**

Within the special flood hazard areas designated as approximate Zone A and established in § 151.017, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of § 151.050, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such

encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

(1) When Base Flood Elevation (BFE) data is available from other sources, all new construction, substantial improvements, or other development within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in §§ 151.050 and 151.051.

(2) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction, substantial improvements, or other development within floodway or non-encroachment areas shall also comply with the requirements of §§ 151.051 and 151.054.

(3) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with § 151.017 and utilized in implementing this chapter.

(4) When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in § 151.015. All other applicable provisions of § 151.051 shall also apply.  
(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### **§ 151.053 STANDARDS FOR FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT.**

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards of §§ 151.050 and 151.051; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### **§ 151.054 FLOODWAYS AND NON-ENCROACHMENT AREAS.**

(A) Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 151.017. The floodways or non-encroachment areas

are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in §§ 151.050 and 151.051, shall apply to all development within such areas.

(B) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(C) If § 151.054(B) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(D) Manufactured homes may be permitted provided the following provisions are met:

(1) The anchoring and the elevation standards of §§ 151.051(C); and

(2) The no encroachment standard of § 151.054(B).

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

## **LEGAL STATUS PROVISIONS**

### **§ 151.070 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.**

(A) This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted October 27, 2004 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of the ordinance codified herein shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the town enacted on October 27, 2004, as amended, which are not reenacted herein are repealed.

(B) The date of the initial Flood Damage Prevention Ordinance for Wilson County is December 6, 1982.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

### **§ 151.071 EFFECT UPON OUTSTANDING BUILDING PERMITS.**

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under

such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter. (Ord. passed 10-27-2004; Ord. passed 3-6-2013)

**§ 151.072 EFFECTIVE DATE.**

This chapter shall become effective upon adoption. (Ord. passed 10-27-2004; Ord. passed 3-6-2013)

**§ 151.999 PENALTY.**

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. passed 10-27-2004; Ord. passed 3-6-2013)

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**CHAPTER 152: SUBDIVISION REGULATIONS**

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Section

*Introductory Provisions*

- 152.001 Title
- 152.002 Purpose
- 152.003 Authority
- 152.004 Jurisdiction
- 152.005 Prerequisite to plat recordation
- 152.006 Acceptance of streets
- 152.007 Thoroughfare plans
- 152.008 School sites on land use plan
- 152.009 Zoning and other plans

*Legal Provisions*

- 152.020 General procedure for plat approval
- 152.021 Statement by owner
- 152.022 Effect of plat approval on dedications
- 152.023 Separability
- 152.024 Variances
- 152.025 Amendments

Saratoga, NC Code of Ordinances

- 152.026 Abrogation
- 152.027 Repeal of conflicting ordinances
- 152.028 Effective date
- 152.029 Administrator

***Procedure For Review and Approval of Subdivision Plats***

- 152.040 Plat shall be required on any subdivision of land
- 152.041 Approval prerequisite to plat recordation
- 152.042 Preliminary plat submission and review for all subdivisions
- 152.043 Final plat submission and review
- 152.044 Information to be contained in or depicted on preliminary and final plats
- 152.045 Recombination of land
- 152.046 Resubdivision procedures

***Required Improvements, Dedication, Reservation, Minimum Standards of Design***

- 152.060 General
- 152.061 Suitability of land
- 152.062 Name duplication
- 152.063 Subdivision design
- 152.064 Streets
- 152.065 Utilities
- 152.066 Other requirements
- 152.067 Buffering, recreation and open space requirements

***Definitions***

- 152.080 Subdivision defined
- 152.081 Definitions
- 152.082 Word interpretation
  
- 152.999 Penalty

**INTRODUCTORY PROVISIONS**

**§ 152.001 TITLE.**

This chapter shall be known and may be cited as the “Subdivision Regulations of the Town of Saratoga, North Carolina,” and may be referred to as the subdivision regulations. (Ord. passed 12-1-1993)

**§ 152.002 PURPOSE.**

The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the town. It is further designed to provide for the orderly growth and development of the town; for the coordination of streets and

highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety and the general welfare. This chapter is designed to further facilitate adequate provision of water, sewerage, parks, schools and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

(Ord. passed 12-1-1993)

**§ 152.003 AUTHORITY.**

This chapter is hereby adopted under the authority and provisions of the G.S. Chapter 160A, Article 19, Part 2.

(Ord. passed 12-1-1993)

**§ 152.004 JURISDICTION.**

The regulations contained herein, as provided in G.S. Chapter 160A, Article 19, shall govern each and every subdivision within the town and its extraterritorial jurisdiction as shown on the official extraterritorial boundary map.

(Ord. passed 12-1-1993)

**§ 152.005 PREREQUISITE TO PLAT RECORDATION.**

After the effective date of this chapter, each individual subdivision plat of land within the town's jurisdiction shall be approved by the Board of Commissioners of the town on affirmative recommendation of the Planning Board of the town.

(Ord. passed 12-1-1993)

**§ 152.006 ACCEPTANCE OF STREETS.**

No street shall be maintained by the town nor street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until such final plat has been approved by the town.

(Ord. passed 12-1-1993) Penalty, see § 152.999

**§ 152.007 THOROUGHFARE PLANS.**

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the town, such part of such



thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter.

(Ord. passed 12-1-1993) Penalty, see § 152.999

### **§ 152.008 SCHOOL SITES ON LAND USE PLAN.**

If the Board of Commissioners of the town and Wilson County Board of Education have jointly determined the specific location and size of any school sites to be reserved and this information appears in the comprehensive land use plan, the Planning Board of the town shall immediately notify the Board of Education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Board of Commissioners of the town. If the Board does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.

(Ord. passed 12-1-1993)

### **§ 152.009 ZONING AND OTHER PLANS.**

Similarly, proposed subdivisions must comply in all respects with the requirements of the zoning regulations in effect in the area to be subdivided, and any other officially adopted plans.

(Ord. passed 12-1-1993)

## **LEGAL PROVISIONS**

### **§ 152.020 GENERAL PROCEDURE FOR PLAT APPROVAL.**

(A) After the effective date of this chapter, no subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Board of Commissioners of the town as set forth in § 152.005, and until this approval is entered in writing on the face of the plat by the Mayor and attested by the Town Clerk.

(B) The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

(Ord. passed 12-1-1993)

### **§ 152.021 STATEMENT BY OWNER.**

## Saratoga, NC Code of Ordinances

The owner of land shown on a subdivision plat submitted for recording, or his or her authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of any city.

(Ord. passed 12-1-1993)

### **§ 152.022 EFFECT OF PLAT APPROVAL ON DEDICATIONS.**

Pursuant to G.S. § 160A-374, the approval of a plat shall not be deemed to constitute or effect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line or other public facility shown on the plat. However, the Board of Commissioners of the town may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the town shall not place on the town any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

(Ord. passed 12-1-1993)

### **§ 152.023 SEPARABILITY.**

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

(Ord. passed 12-1-1993)

### **§ 152.024 VARIANCES.**

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

(Ord. passed 12-1-1993)

### **§ 152.025 AMENDMENTS.**

(A) The Board of Commissioners of the town may from time-to-time amend the terms of this chapter but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have 30 days from the time the proposed amendment is submitted to it within which

to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

(B) No amendment shall be adopted by the governing body until it has held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the town area at least once a week for two successive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 nor less than ten days prior to the hearing date. In computing the ten-day period, the date of publication is not to be counted, but the date of the hearing is.

(Ord. passed 12-1-1993)

### **§ 152.026 ABROGATION.**

It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. passed 12-1-1993)

### **§ 152.027 REPEAL OF CONFLICTING ORDINANCES.**

All existing ordinances in conflict with this chapter are hereby repealed to the extent necessary to give this chapter full force and effect.

(Ord. passed 12-1-1993)

### **§ 152.028 EFFECTIVE DATE.**

This chapter shall take effect and be in force from and after January 1, 1994.

(Ord. passed 12-1-1993)

### **§ 152.029 ADMINISTRATOR.**

A Town Commissioner, appointed by the Town Board, shall serve as the Subdivision Administrator.

(Ord. passed 12-1-1993)

## **PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS**

### **§ 152.040 PLAT SHALL BE REQUIRED ON ANY SUBDIVISION OF LAND.**

Pursuant to G.S. § 160A-372, a final plat shall be prepared, approved and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place.  
(Ord. passed 12-1-1993)

**§ 152.041 APPROVAL PREREQUISITE TO PLAT RECORDATION.**

Pursuant to G.S. § 160A-373, no final plat of a subdivision within the jurisdiction of the town as established in § 152.004 shall be recorded by the Register of Deeds of the county until it has been approved by the Board of Commissioners of the town as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in §§ 152.040 through 152.046.  
(Ord. passed 12-1-1993)

**§ 152.042 PRELIMINARY PLAT SUBMISSION AND REVIEW FOR ALL SUBDIVISIONS.**

(A) *Submission procedure.*

(1) For every subdivision within the territorial jurisdiction established by § 152.004, the subdivider shall submit to the Subdivision Administrator a preliminary plat which shall be reviewed by the Planning Board and approved by the Board of Commissioners before any construction or installation of improvements may begin.

(2) Seven copies of the preliminary plat (as well as any additional copies which the Subdivision Administrator determines are needed to be sent to other agencies) shall be submitted to the Administrator of this chapter. Submission of the preliminary plat shall be accompanied by a filing fee, paid by the subdivider, in accordance with the town's fee schedule.

(3) Preliminary plats shall meet the specifications in § 152.044.

(B) *Review by other agencies.* After having received the preliminary plat from the subdivider, the Subdivision Administrator shall submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development including, where applicable, but not limited to, the County Health Department, the Public Works Superintendent, the District Engineer of the State Department of Transportation (four copies) and the County Soil Conservation Service, for review and recommendation.

(C) *Review procedure.*

(1) The Planning Board shall review the preliminary plat at its next meeting following receipt of the plat by the Subdivision Administrator.

(2) The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons, within 45 days of its first consideration of the plat.

(3) If the Planning Board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes and transmit two copies of the plat, to the Board of Commissioners with its recommendation.

(4) If the Planning Board recommends conditional approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit two copies of the plat and its

recommendation to the Board of Commissioners, and return the remaining copy of the plat and its recommendation to the subdivider.

(5) If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the Board of Commissioners, and return the remaining copy of the plat and its recommendation to the subdivider.

(6) If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat or appeal the decision to the Board of Commissioners.

(7) If the Planning Board does not make a written recommendation within 45 days after its first consideration of the plat, the subdivider may apply to the Board of Commissioners for approval or disapproval.

(8) If the Board of Commissioners approves the preliminary plat, such approval shall be noted on two copies of the plat, one copy of the plat shall be retained by the Board of Commissioners and one copy shall be returned to the subdivider. If the Board of Commissioners approves the preliminary plat with conditions, approval shall be noted on two copies of the plat along with a reference to the conditions. One copy of the plat along with the conditions shall be retained by the Board of Commissioners and one copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the Board of Commissioners disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Board of Commissioners and one copy shall be returned to the subdivider.

(Ord. passed 12-1-1993)

#### **§ 152.043 FINAL PLAT SUBMISSION AND REVIEW.**

(A) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the Board of Commissioners, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided herein. No final plat will be accepted for review by the Board of Commissioners unless accompanied by written notice by the Town Clerk acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this chapter. The first final plat shall be submitted within 18 months and the last final plat within 60 months after the date on which the preliminary plat was approved; otherwise, the preliminary plat shall become null and void unless an extension of time is applied for and granted by the Board of Commissioners before the date on which the preliminary plat would become null and void.

(B) *Improvements guarantees.*

(1) *Agreement and security required.* In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required

herein is provided, the final plat may be approved by the Board of Commissioners if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide, subject to the approval of the Board of Commissioners, either one, or a combination of the following guarantees, not exceeding one and one-fourth times the entire cost as provided herein.

(a) *Surety performance bond(s)*. The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in the state. The bonds shall be payable to the town and shall be in an amount equal to one and one-fourth times the entire cost, as estimated by the subdivider and approved by the Board of Commissioners, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the Board of Commissioners.

(b) *Cash or equivalent security*.

1. The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution designated as an official depository of the town. The use of any instrument other than cash shall be subject to the approval of the Board of Commissioners. The amount of deposit shall be equal to one and one-fourth times the cost, as estimated by the subdivider and approved by the Board of Commissioners, of installing all required improvements.

2. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Board of Commissioners an agreement between the financial institution and himself or herself guaranteeing the following:

a. That said escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in any other matter during the term of escrow; and

b. That in the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Board of Commissioners and submission by the Board of Commissioners to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the town the funds needed to complete the improvement, up to the full balance of the escrow account, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.

(2) *Default*. Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Board of Commissioners pay all or any portion of the bond or escrow fund to the town up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Board of Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The town shall return to the subdivider any funds not spent in completing the improvements.

(3) *Release of guarantee security*. The Board of Commissioners of the town may release a portion of any security posted as the improvements are completed and recommended for approval by the Subdivision Administrator. Within 45 days after receiving, the Subdivision Administrator's recommendation, the Board of Commissioners of the town shall approve or disapprove said improvements. If the Board of Commissioners of the town approves said improvements, then it shall immediately release any security posted on that portion.

Saratoga, NC Code of Ordinances

(4) *Defects guarantee.* The Board of Commissioners shall require a bond from the subdivider guaranteeing utility taps, curbs, gutters, street construction including pavement, sidewalks, drainage facilities, seeding and grading of road shoulders, water and sewer lines, and other improvements for one year. The one year shall begin from the date of approval of final plat or approval of improvements by the Board of Commissioners.

(C) *Submission procedure.*

(1) The subdivider shall submit the final plat, so marked, to the Subdivision Administrator.

(2) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. § 47-30 and the *Standards of Practice for Land Surveying in North Carolina*.

(3) Five copies of the final plat shall be submitted; two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the *Standards of Practice for Land Surveying in North Carolina*, where applicable, and the requirements of the County Register of Deeds.

(4) The final plat shall be of a size suitable for recording with the County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(5) Submission of the final plat shall be accompanied by a filing fee, paid by the subdivider, in accordance with the town's fee schedule.

(6) The final plat shall meet the specifications in § 152.044.

(7) The following signed certificates shall appear on all five copies of the final plat.

(a) *Certificate of ownership and dedication.*

<b><i>Certificate of Ownership and Dedication</i></b>	
I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Saratoga and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the Town of Saratoga.	
	_____ Owners
_____ Date	

(b) *Certificate of survey and accuracy.* In accordance with G.S. § 47-

30:

1. There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including a recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be



Saratoga, NC Code of Ordinances

acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed;

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

***Certificate of Survey and Accuracy***

I, \_\_\_\_\_, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book \_\_, Page \_\_, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_, Page \_\_; that this plat was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number, and seal this \_\_ day of \_\_, A.D. 20\_\_.

\_\_\_\_\_  
Surveyor

\_\_\_\_\_  
Registration Number

Seal or Stamp

b. The certificate of the notary shall read as follows:

North Carolina, \_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_ day of \_\_, A.D. 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

Seal—Stamp

3. *Certificate of approval of the design and installation of streets, utilities and other required improvements.*

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

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to Town specifications and standards in the \_\_\_\_\_ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Saratoga have been received, and that the filing fee for this plat, in the amount of \$\_\_\_\_\_ has been paid.

\_\_\_\_\_  
Subdivision Administrator

\_\_\_\_\_  
Date

a. The Planning Board shall review the final plat at or before its next meeting after the Subdivision Administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 40 days of its first consideration of the plat.



Saratoga, NC Code of Ordinances

b. During its review of the final plat, the Planning Board may appoint a registered land surveyor to confirm the accuracy of the final plat (if agreed to by the Board of Commissioners). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

c. If the Planning Board recommends approval of the final plat, it shall transmit all copies of the plat and its written recommendations to the Board of Commissioners through the Subdivision Administrator.

d. If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one print of the plat for its minutes, return its written recommendations and two reproducible copies of the plat to the subdivider, and transmit one print of the plat and its written recommendation to the Board of Commissioners through the Subdivision Administrator.

e. If the Planning Board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter, and resubmit the same for reconsideration by the Planning Board, or appeal the decision to the Board of Commissioners.

f. Failure of the Planning Board to make a written recommendation within 45 days shall constitute grounds for the subdivider to apply to the Board of Commissioners for approval.

g. If the Planning Board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the Board of Commissioners, the Board of Commissioners shall review and approve or disapprove the final plat within 65 days after the plat and recommendations of the Planning Board have been received by the Subdivision Administrator.

h. If the Board of Commissioners approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

<b><i>Certificate of Approval for Recording</i></b>	
I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Saratoga, North Carolina and that this plat has been approved by the Board of Commissioners of the Town of Saratoga for recording in the Office of the Register of Deeds of Wilson County.	
	_____ Mayor Town of Saratoga, North Carolina
_____ Date	
	_____ ATTEST

i. If the final plat is disapproved by the Board of Commissioners, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Board of Commissioners as part of its proceedings; one copy of the reasons and three copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring

Saratoga, NC Code of Ordinances

the final plat into compliance and resubmit same for reconsideration by the Planning Board and Board of Commissioners.

j. If the final plat is approved by the Board of Commissioners, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the Town Clerk, and one print shall be returned to the Planning Board for its records.

k. The subdivider shall file the approved final plat with the Register of Deeds of the county within 60 days of the Board of Commissioners' approval; otherwise, such approval shall be null and void.  
(Ord. passed 12-1-1993)

**§ 152.044 INFORMATION TO BE CONTAINED IN OR DEPICTED ON PRELIMINARY AND FINAL PLATS.**

The preliminary and final plats shall depict or contain the information indicated in the following table. An "x" indicates that the information is required.

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Title block containing:		
Property designation	x	x
Name of owner	x	x
Location (including township, county and state)	x	x
Date or dates survey was conducted and plat prepared	x	x
A scale of drawing in feet per inch listed in words or figures	x	x
A bar graph	x	x
Name, address, registration number and seal of the registered land surveyor	x	x
The name of the subdivider	x	x
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	x	x
Corporate limits, township boundaries, county lines, if on the subdivision tract	x	x
The names, addresses and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects and professional engineers responsible for the subdivision	x	x
The registration numbers and seals of the professional engineers	x	x
Date of plat preparation	x	x
North arrow and orientation	x	x
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	x	

Saratoga, NC Code of Ordinances

The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands		X
The names of owners of adjoining properties	X	X
The names of any adjoining subdivisions of record or proposed and under review	X	X
Minimum building setback lines	X	X
The zoning classifications of the tract to be subdivided and adjoining properties	X	X
Existing property lines on the tract to be subdivided and on adjoining properties	X	X
Existing buildings or other structures, watercourses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X
Proposed lot lines, lot and block numbers and approximate dimensions	X	
The lots numbered consecutively throughout the subdivision		X
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site	X	
The exact location of the flood hazard areas from the appropriate Federal Emergency Management Agency maps	X	X
The following data concerning streets:		
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
Rights-of-way, location and dimensions	X	X
Pavement widths	X	
Approximate grades	X	
Design engineering data for all corners and curves	X	X
Typical street cross-sections	X	
Street names	X	X
Street maintenance agreement in accordance with § 152.064(A)		X
Type of street dedication; all streets must be designated as "public;" where public streets are involved which will be dedicated to the town, the subdivider must submit all street plans to the Subdivision Administrator for approval prior to preliminary plat approval; where public streets are involved which will not be dedicated to a municipality, the subdivider must submit the following documents to the State Department of Transportation District Highway office for review: a complete site layout, including any	X	X

Saratoga, NC Code of Ordinances

future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas.		
Where streets are dedicated to the public, but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street in accordance with § 152.064(B)		X
If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the State Department of Transportation, <i>Division of Highways Manual on Driveway Regulations</i> ; evidence that the subdivider has obtained such approval	X	
The location and dimensions of all:		
Utility and other easements	X	X
Riding trails	X	X
Natural buffers	X	X
Pedestrian or bicycle paths	X	X
Parks and recreation areas with specific type indicated	X	X
School sites	X	X
Areas to be dedicated to or reserved for public use	X	X
Areas to be used for purposes other than residential with the purpose of each stated	X	X
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners association, or for tenants remaining in subdivider's ownership) of recreation and open space lands	X	
The plans for utility layouts including:		
Sanitary sewers, prepared by a registered engineer	X	
Storm sewers, prepared by a registered engineer	X	
Other drainage facilities, if any, prepared by a registered engineer, except incidental drainage	X	X
Water distribution lines, prepared by a registered engineer illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves	X	
Natural gas lines	X	
Telephone lines	X	X

Saratoga, NC Code of Ordinances

Electric lines	x	x
Plans for individual water supply and sewage disposal systems, if any	x	x
Profiles based upon mean sea level datum for sanitary sewers and storm sewers	x	
Site calculations including:		
Acreage in total tract to be subdivided	x	
Acreage in parks and recreation areas and other nonresidential uses	x	
Total number of parcels created	x	
Acreage in the smallest lot in the subdivision	x	
Linear feet in streets	x	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the United States Department of Interior's National Register of Historic Places	x	x
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distances for the centerline of curved property lines that are not the boundary line of curved streets; all dimensions shall be measured to the nearest 1/10 of a foot and all angles to the nearest minute		x
The accurate locations and descriptions of all monuments, markers and control points		x
A copy of any proposed deed restrictions or similar covenants; such restrictions are mandatory when private recreation areas are established.	x	x
A copy of the erosion control plan submitted to the appropriate authority, if such a plan is required.	x	
Topographic map with contour intervals of no greater than 5 feet at a scale of no less than 1 inch to 200 feet*	x	
* Subdivisions which require no new streets or roads or other easements, no utility extensions and are comprised of 5 or fewer lots and 5 or fewer acres of land, are exempt from this requirement		
Site calculations including:		
All certifications required in §§ 152.043 or 152.046 if applicable		x
Any other information considered by either the	x	x

subdivider, Planning Board or Board of Commissioners to be pertinent to the review of the plat		
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(Ord. passed 12-1-1993)

**§ 152.045 RECOMBINATION OF LAND.**

(A) Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

(B) Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(C) Such an instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

(D) When lots have been sold, the plat may be vacated in the manner provided in §§ 308.1 through 308.3 by all owners of the lots in such plat joining in the execution of such writing.

(Ord. passed 12-1-1993)

**§ 152.046 RESUBDIVISION PROCEDURES.**

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

(Ord. passed 12-1-1993)

**REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION,  
MINIMUM STANDARDS OF DESIGN**

**§ 152.060 GENERAL.**

Each subdivision shall contain the improvements specified in this subchapter, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider, unless other means of financing is specifically stated in this chapter. Land shall be dedicated and reserved in each subdivision as specified in this chapter. Each subdivision shall adhere to the minimum standards of design established by this subchapter.

(Ord. passed 12-1-1993)

**§ 152.061 SUITABILITY OF LAND.**

(A) Land which has been determined by the Board of Commissioners on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

(B) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose provided.

(C) (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.  
(Ord. passed 12-1-1993)

**§ 152.062 NAME DUPLICATION.**

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the county.  
(Ord. passed 12-1-1993)

**§ 152.063 SUBDIVISION DESIGN.**

- (A) *Blocks.*
- (1) The lengths, widths and shapes of blocks shall be determined with due regard to:
- (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated;
  - (b) Zoning requirements, needs for vehicular and pedestrian circulation;
  - (c) Control and safety of street traffic;
  - (d) Limitations and opportunities of topography; and
  - (e) Convenient access to water areas.
- (2) Blocks shall not be less than 400 feet or more than 1,800 feet in length.
- (3) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions or where abutting a water area.
- (4) Where deemed necessary by the Board of Commissioners, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area or to areas such as shopping centers, religious or transportation facilities.

Saratoga, NC Code of Ordinances

(5) Block numbers shall conform to the town street numbering system, if applicable.

(B) *Lots.*

(1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located, except as authorized in this chapter (see division (B)(5) below). Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning regulations. It is not sufficient merely for the average lot to meet zoning requirements.

(2) Lots shall meet any applicable County Health Department requirements.

(3) Double frontage lots shall generally be avoided, except where necessary or beneficial (for example to provide vehicular access for major developments to thoroughfares or other major roads).

(4) Side lot lines shall be substantially at right angles to or radial to street lines.

(5) Certain zoning ordinance requirements (including minimum lot area, size, yards and access) shall not be required for lots to be used for family or church cemeteries, or low-impact utility uses such as small utility equipment/appurtenances and lift/pump stations. Such lots shall be approved by the town in the same manner as other lots, and shall comply with the following:

(a) The Board of Commissioners shall determine that the size of the proposed lot is sufficient for the proposed use and any required landscape buffers, and that it will in no way be detrimental to public health or safety;

(b) If the proposed lot does not have direct access to a public street, then an access easement of at least ten feet in width shall be shown on the plat; and

(c) The approved final plat for all such lots shall be labeled as a “Special Purpose Lot for use as \_\_\_\_\_.”

(C) *Easements.* Easements shall be provided as follows.

(1) *Utility easements.*

(a) Easement a for underground or above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines.

(b) The Board of Commissioners will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements.

(2) *Drainage easements.* Where a subdivision is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

(Ord. passed 12-1-1993; Ord. 2010-09, passed 3-31-2010)

**§ 152.064 STREETS.**

(A) *Type of street required.* All subdivision lots shall abut on a paved public street. All public streets shall be dedicated to the town or the public, as determined appropriate by the Board of Commissioners. All public streets shall be built to the standards of State Department of



Transportation, Division of Highways *Subdivision Roads, Minimum Construction Standards*, current issue and all other applicable standards of the town and the State Department of Transportation. Public streets not dedicated to the town which are eligible for acceptance into the state highway system shall be constructed to the standards necessary to be put on the state highway system or the standards in this chapter, whichever is stricter, in regard to each particular item, and shall be put on such system. Streets not dedicated to the town which are not eligible to be put on the state highway system because there are too few lots or residences shall nevertheless be dedicated to the public and shall be in accordance with the standards in this chapter or the standards necessary to be put on the state highway system, whichever is stricter in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the state system shall be included with the final plat.

(B) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. § 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

(C) *Half-streets.* The dedication of half-streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider, provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(D) *Marginal access streets.* Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(E) *Access to adjacent properties.* Where, in the opinion of the Board of Commissioners, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided. The extension dedicated shall have the same right-of-way width as the street being extended.

(F) *Nonresidential streets.* The subdivider of a nonresidential subdivision shall provide streets in accordance with I. F-4 of the State Department of Transportation, Division of Highways *Subdivision Roads, Minimum Construction Standards*, current issue, and the standards in this chapter, whichever are stricter in regard to each particular item.

(G) *Design standards.*

(1) *Generally.*

(a) The design of all streets and roads within the jurisdiction of this chapter shall be in accordance with the accepted policies of the State Department of Transportation, Division of Highways, as taken or modified from the American Association of

Saratoga, NC Code of Ordinances

State Highway and Transportation Officials (AASHTO) manuals. The current issue of the State Department of Transportation, Division of Highways *Subdivision Roads, Minimum Construction Standards* shall apply for any items not included in this chapter, or where stricter than this chapter.

(b) The provision of street rights-of-way shall conform to and meet the requirements of the thoroughfare plan of the town as approved by the Planning Board and adopted by the Board of Commissioners of the town and the State Board of Transportation.

(c) The urban planning area shall consist of that area within the urban planning boundary as depicted on the mutually adopted town thoroughfare plan.

(d) The rural planning area shall be that area outside the urban planning boundary.

(2) *Right-of-way widths.*

(a) Right-of-way widths shall not be less than the following and shall apply except in those cases where right-of-way requirements have been specifically set out in the thoroughfare plan.

<i>Rural</i>	<i>Minimum Right-of-Way, Feet</i>
Local road	50*
Major collector	100
Minor arterial	100
Minor collector	100
Principal arterial	
Freeways	350
Other	200
*The desirable minimum right-of-way is established as 50 feet; if curb and gutter are provided, 50 feet of right-of-way is adequate on local residential streets	

<i>Urban</i>	<i>Minimum Right-of-Way, Feet</i>
Cul-de-sac	100
Local street	50*
Major thoroughfare other than freeway and expressway	90
Minor thoroughfare	70
*The desirable minimum right-of-way is established as 50 feet; if curb and gutter are provided, 50 feet of right-of-way is adequate on local residential streets	

(b) The subdivider will only be required to dedicate a maximum of 100 feet of right-of-way. In cases where over 100 feet of right-of-way is desired, the subdivider will be required only to reserve the amount in excess of 100 feet. In all cases in which right-of-way is sought for an access controlled facility, the subdivider will only be required to make a reservation.

(3) *Street widths.* Widths for street and road classifications other than local shall be as required by the thoroughfare plan. Width of local roads and streets shall be as follows:

(a) *Local residential.*

Saratoga, NC Code of Ordinances

Curb and gutter section	26 feet, face-to-face of curb
Shoulder section	20 feet to edge of pavement, 4-foot shoulders

(b) *Residential collector.*

Curb and gutter section	34 feet, face-to-face of curb
Shoulder section	20 feet to edge of pavement, 6-foot shoulders

(4) *Geometric characteristics.* The standards outlined below shall apply to all subdivision streets proposed for addition to the state highway system or municipal street system. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under division (G)(2)(b) above shall apply.

(a) *Design speed.* The design speeds for subdivision-type streets shall be:

	<i>Desirable</i>	<i>Minimum</i>
<b><i>Rural</i></b>		
Local roads including residential collectors and local residential	50	50*
Minor collector roads	60	50
<b><i>Urban</i></b>		
Local streets	40	40**
Major thoroughfares other than freeway or expressway	60	50
Minor thoroughfares	60	50
*Based on projected annual average daily traffic of 400 to 750; in cases where a road will serve a very limited area and small number of dwelling units, minimum design speeds can be reduced further, but in no case below 25		
**Based on projected annual average daily traffic of 50 to 250		

(b) *Maximum and minimum grades.*

1. The maximum grades in percent shall be:

<i>Design Speed</i>	<i>Grade</i>
60	3%
50	4%
40 or less	5%

2. A minimum grade for curbed streets normally should not be less than 0.5%; a grade of 0.35% may be allowed where there is a high type pavement accurately crowned and in areas where specific drainage conditions may control.

3. Grades for 100 feet each way from intersections should not exceed 5%.

4. For streets and roads with projected annual average daily traffic less than 250, short grades less than 500 feet long, may be 150% greater.

Saratoga, NC Code of Ordinances

(c) *Minimum sight distances.*

1. In the interest of public safety, no less than the minimum sight distance applicable shall be provided in every instance. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. (General practice calls for vertical curves to be multiples of 50 feet. Calculated lengths shall be rounded up in each case.)

<b>Design Speed, mph</b>	<b>20</b>	<b>30</b>	<b>40</b>	<b>50</b>	<b>60</b>
<b>Stopping sight distance:</b>					
Des. stopping distance, ft.	150	200	300	450	650
Min. stopping distance, ft.	150	200	275	350	475
<b>Minimum K* value for:</b>					
Des. crest vert. curve	16	28	65	145	300
Min. crest vert. curve	16	28	55	85	160
Des. SAG vert. curve	24	35	60	100	155
Min. SAG vert. curve	24	35	55	75	105
		<b>30</b>	40	50	60
<b>Passing sight distance</b>					
Min. K* value for crest vertical curve		365	686	985	1,340
Min. passing distance, ft. (2 lane)		1,100	1,500	1,800	2,100
K* is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve which will provide minimum sight distance					

2. Sight distance provided for stopped vehicles at intersections shall be in accordance with *A Policy on Geometric Design of Rural Highways* and the zoning regulations of the town.

(d) *Maximum degree of curve.* The following table shows the maximum degree of curve and related maximum superelevation for design speeds. The maximum rate of roadway superelevation (e) for rural roads with no curb and gutter is .08. The maximum rate of superelevation for urban streets with curb and gutter is .06 with .04 being desirable.

<b>Design Speed mph</b>	<b>Maximum e*</b>	<b>Minimum Radius (Rounded) Feet</b>	<b>Maximum Degree of Curve (Rounded) Degrees</b>
20	.04	125	45.0
30	.04	300	19.0
40	.04	560	10.0
50	.04	925	6.0
60	.04	1,410	4.0
20	.06	115	50.0
30	.06	275	21.0
40	.06	510	11.5

Saratoga, NC Code of Ordinances

50	.06	830	7.0
60	.06	1,260	4.5
20	.06	110	53.5
30	.08	250	23.0
40	.08	460	12.5
50	.08	760	7.5
60	.08	1,140	5.0
* = Rate of roadway superelevation, foot per foot			

(5) *Intersections.*

(a) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60 degrees.

(b) Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.

(c) Offset intersections are to be avoided unless exception is granted by the Division of Highways or the town as applicable. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey and centerlines.

(d) Intersections with arterials, collectors and thoroughfares shall be at least 1,000 feet from centerline to centerline, or more if required by the State Department of Transportation.

(6) *Cul-de-sacs.* Permanent deadend streets should not exceed 500 feet in length unless necessitated by topography or property accessibility and in no case shall be permitted to be over 900 feet. Measurement shall be from the point where the centerline of the deadend street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. Where one cul-de-sac intersects with another cul-de-sac, the end of each cul-de-sac shall be no more than 500 to 900 feet from a through street, measured as stated above. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to the right-of-way line on the street approaching the turnaround. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid the extension of an important street, unless the exception is granted by the Board of Commissioners of the town.

(7) *Alleys.*

(a) 1. Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access.

2. Alleys shall not be provided in residential subdivisions unless necessitated by unusual circumstances.

(b) The width of an alley shall be at least 20 feet.

(c) Deadend alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the deadend as may be approved by the Board of Commissioners of the town.

(d) Sharp changes in alignment and grade shall be avoided.

Saratoga, NC Code of Ordinances

(e) All alleys shall be designated in accordance with the State Department of Transportation standards.

(H) *Other requirements.*

(1) *Through traffic discouraged on residential collector and local streets.*

Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged, streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools or other places of public assembly.

(2) *Sidewalks.* Sidewalks may be required by the Board of Commissioners of the town on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four feet, and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six inches of concrete at driveway crossings.

(3) *Street names.* Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court and the like. Street names shall be subject to the approval of the Board of Commissioners of the town.

(4) *Street name signs.* The subdivider shall be required to provide and erect street name signs to town standards at all intersections within the subdivision.

(5) *Permits for connection to state roads.* An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.

(6) *Offsets to utility poles.* Poles for overhead utilities should be located clear of roadway shoulders, preferably a minimum of at least 30 feet from the edge of pavement on major thoroughfares. On streets with curb and gutter, utility poles should be set back a minimum distance of six feet from the face of curb.

(7) *Wheelchair ramps.* In accordance with G.S. Chapter 136, Article 2A, § 136-44.14, all street curbs in the state being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically disabled at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(8) *Horizontal width on bridge deck.*

(a) The clear roadway widths for new and reconstructed bridges serving two lane, two way traffic shall be as follows.

1. *Shoulder section approach.*

a. *Under 800 ADT design year.* Minimum 28 feet width face-to-face of parapets or rails or pavement width plus ten feet, whichever is greater.

b. *Eight hundred to 2,000 ADT design year.* Minimum 34 feet width face-to-face of parapets or rails or pavement width plus 12 feet, whichever is greater.

Saratoga, NC Code of Ordinances

- c. *Over 2,000 ADT design year.* Minimum 40 feet.  
Desirable 44 feet width face-to-face of parapets or rails.
- 2. *Curb and gutter approach.*
  - a. *Specifically.*
    - i. *Under 800 ADT design year.* Minimum 24 feet face-to-face of curbs.
    - ii. *Over 800 ADT design year.* Width of approach pavement measured face-to-face of curbs.
  - b. *Curbs on bridges.* Where curb and gutter sections are used on roadway approaches, curbs on bridges shall match the curbs on approaches in height, in width of face-to-face of curbs, and in crown drop. The distance from face of curb to face of parapet or rail shall be one foot, six inches minimum, or greater if sidewalks are required.
- (b) The clear roadway widths for new and reconstructed bridges having four or more lanes serving undivided two-way traffic shall be as follows.
  - 1. *Shoulder section approach.* Width of approach pavement plus width of usable shoulders on the approach left and right.
  - 2. *Curb and gutter approach.* Width of approach pavement measured face-to-face of curbs.
- (9) *Curb and gutter.* Curb and gutter shall be provided where deemed necessary by the Board of Commissioners of the town with advice from the Planning Board and/or the town's Consulting Engineer in order to provide adequate drainage, or because high traffic volumes, soil conditions or other similar conditions or special problems exist.  
(Ord. passed 12-1-1993)

**§ 152.065 UTILITIES.**

- (A) *Water and sanitary sewer systems.*
  - (1) Each lot in all subdivisions within the corporate limits of the town shall be provided, at the subdivider's expense, with an extension of the municipal water and sanitary sewer systems.
  - (2) Each subdivision in the extraterritorial area of the town may be connected at the subdivider's expense to the municipal water and sanitary sewer systems if approved by the Board of Commissioners of the town.
  - (3) Water and sanitary sewer lines, connections and equipment shall be in accordance with the town standards and policies. Water and sewer taps and meters, meter curb boxes and conservation stops shall be installed at the subdivider's expense on each lot within the corporate limits of the town, or if the subdivider is utilizing the town's water and sewer system in a subdivision outside the corporate limits, in each lot within the subdivision.
  - (4) All lots in subdivisions not connected to municipal or county water and/or sanitary sewer systems must have a suitable source of water supply and sanitary sewage system, which complies with the regulations of the applicable county and state agencies.
- (B) *Stormwater drainage system.* The subdivider shall provide a surface water drainage system constructed to the standards of the State Department of Transportation, as reflected in the current issue of the *Handbook for the Design of Highway Surface Drainage Structures*, subject to review by the Town Board of Commissioners.

Saratoga, NC Code of Ordinances

- (1) No surface water shall be channeled or directed into a sanitary sewer.
  - (2) Where feasible, the subdivider shall connect to an existing storm drainage system.
  - (3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
  - (4) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act, G.S. § 113A-50 et seq., Chapter 113A, Article 4, and North Carolina Administrative Code Title 15, Chapter 4 and any locally adopted erosion and sedimentation control ordinances.
  - (5) The minimum grade along the bottom of a surface drainage course should be a vertical fall of at least one foot in each 200 feet of horizontal distance.
  - (6) Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Administrative Code Title 15, Chapter 4.
  - (7) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967, being G.S. §§ 143-215.23 et seq. and North Carolina Administrative Code Title 15, Subchapter 2K.
  - (8) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (C) *Street lights.* All subdivisions in which the size of the smallest lot is less than 40,000 square feet shall have street lights installed throughout the subdivision in accordance with the standards of the Town of Stantonsburg or the City of Wilson.  
(Ord. passed 12-1-1993)

**§ 152.066 OTHER REQUIREMENTS.**

(A) *Placement of monuments.* Unless otherwise specified by this chapter, the *Standards of Practice for Land Surveying* as adopted by the State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions, to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of monuments, markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

(B) *Construction procedures.*

- (1) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.
- (2) No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this chapter until all the requirements of this chapter have been met. The subdivider, prior to commencing any work within the



subdivision, shall provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

(C) *Oversized improvements.* The town may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the town requires the installation of improvements in excess of the standards required in this chapter, including all standards adopted by reference, the town shall pay the cost differential between the improvement required and the standards in this chapter. The town may recoup this cost through fees.

(Ord. passed 12-1-1993)

### **§ 152.067 BUFFERING, RECREATION AND OPEN SPACE REQUIREMENTS.**

Whenever a residential subdivision is located adjacent to an office, institutional, commercial or industrial use which does not have a buffer, or property zoned for these uses, and a buffer is not required between these and the subdivision, the subdivider shall provide a buffer as defined in § 152.081. The width of the buffer shall be in addition to the lot area required by the zoning regulations of the town. The buffer shall become part of the lot on which it is located, or in the case of commonly-owned property, shall be deeded to the homeowners association.

(Ord. passed 12-1-1993)

## **DEFINITIONS**

### **§ 152.080 SUBDIVISION DEFINED.**

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

#### ***SUBDIVISION.***

(1) All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets.

(2) The following shall not be included within this definition nor be subject to any regulations enacted pursuant to this chapter:

(a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in this chapter;

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

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

(d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is

involved and where the resultant lots are equal to or exceed the standards of the municipality as shown in this chapter.

(Ord. passed 12-1-1993)

## § 152.081 DEFINITIONS.

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

**BLOCK.** A piece of land bounded on one or more sides by streets or roads.

**BOARD OF COMMISSIONERS** or **TOWN BOARD.** The Board of Commissioners of the Town of Saratoga, North Carolina.

**BUFFER STRIP.** A planted strip of land which shall be a minimum of 16 feet in width and shall be composed of evergreen bushes, trees and/or shrubs such that at least two rows are provided from the ground to a height of six feet within six years and foliage overlaps within six years.

**BUILDING SETBACK LINE.** A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

**DEDICATION.** A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, **DEDICATION** must be made by written instrument, and is completed with an acceptance.

**EASEMENT.** A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.

**HALF-STREET.** A street whose centerline coincides with a subdivision plat boundary, with one-half the street right-of-way width being contained within the subdivision plat.

**LOT.** A portion of a subdivision, or any other parcel of land, intended an a unit of transfer of ownership or for development, or both.

**LOT OF RECORD.** A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of the county prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.

### **LOT TYPES.**

(1) **CORNER LOT.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a **CORNER LOT** if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

(2) **DOUBLE FRONTAGE LOT.** A continuous (through) lot which is accessible from both streets upon which it fronts.

(3) **INTERIOR LOT.** A lot other than a corner lot with only one frontage on a street.

(4) **REVERSED FRONTAGE LOT.** A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A **REVERSED FRONTAGE LOT** may also be a corner lot, an interior lot or a through lot.

(5) **SINGLE-TIER LOT.** A lot which backs upon a limited access highway, a railroad, a physical barrier or another type of land use and to which access from the rear is usually prohibited.

(6) **THROUGH LOT** or **DOUBLE FRONTAGE LOT.** A lot other than a corner lot with frontage on more than one street. **THROUGH LOTS** abutting two streets may be referred to as **DOUBLE FRONTAGE LOTS.**

**OFFICIAL MAPS OR PLANS.** Any maps or plans officially adopted by the Board of Commissioners of the town.

**OPEN SPACE.** An area (land and/or water) generally lacking in human-made structures and reserved for enjoyment in its unaltered state.

**PLAT.** A map or plan of a parcel of land which is to be, or has been subdivided.

**PUBLIC OR COMMUNITY SEWAGE SYSTEM.** A single system of sewage collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

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

**STREET.** A dedicated and accepted public right-of-way for vehicular traffic. The following classifications shall apply.

(1) *Rural roads.*

(a) **LOCAL ROAD.** Serves primarily to provide access to adjacent land and for travel over relatively short distances.

(b) **MAJOR COLLECTOR.** A road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

(c) **MINOR ARTERIAL.** A rural link in a network joining cities and larger towns and providing intrastate and intercounty service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

(d) **MINOR COLLECTOR.** A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

(e) **PRINCIPAL ARTERIAL.** A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as **PRINCIPAL ARTERIALS.**

(2) *Urban streets.*

(a) **LOCAL STREET.** A local street is any link not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

(b) **MAJOR THOROUGHFARES.** Consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

(c) **MINOR THOROUGHFARES.** Important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

(3) *Specific type rural or urban streets.*

Saratoga, NC Code of Ordinances

(a) **ALLEY.** A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

(b) **CUL-DE-SAC.** A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

(c) **FREEWAY, EXPRESSWAY or PARKWAY.** Divided multi-lane roadway designed to carry large volumes of traffic at relatively high speeds. A **FREEWAY** is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An **EXPRESSWAY** is a divided highway with full or partial control of access and generally with grade separations at major intersections. A **PARKWAY** is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development.

(d) **FRONTAGE ROAD.** A local street or road that is parallel to a full or partial access control facility and functions to provide access to adjacent land.

(e) **LOCAL RESIDENTIAL STREET.** Cul-de-sacs, loop streets less than 2,500 feet in length or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.

(f) **RESIDENTIAL COLLECTOR STREET.** A local access street which serves as a connector street between local residential streets and the thoroughfare system. **RESIDENTIAL COLLECTOR STREETS** typically collect traffic from 100 to 400 dwelling units.

**SUBDIVIDER.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

(Ord. passed 12-1-1993)

## § 152.082 WORD INTERPRETATION.

For the purpose of this chapter, certain words shall be interpreted as follows.

(A) Words used in the present tense include the future tense.

(B) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

(C) The word **PERSON** includes a firm, association, corporation, trust and company as well as an individual.

(D) The words **USED FOR** shall include the meaning **DESIGNED FOR**.

(E) The word **STRUCTURE** shall include the word **BUILDING**.

(F) The word **LOT** shall include the words **PLOT, PARCEL** or **TRACT**.

(G) The word **SHALL** is always mandatory and not merely directory.

(Ord. passed 12-1-1993)

## § 152.999 PENALTY.

(A) After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this chapter, thereafter

subdivides his or her land in violation of this chapter or transfers or sells land by reference to, exhibition of or any other use of a plat showing a subdivision of the land before the plat has been properly approved, under the terms of this chapter and recorded in the office of the County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town, through its attorney or other official designated by the Board of Commissioners, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this chapter shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. § 14-4.

(B) Each day's continuing violation of this chapter shall be a separate and distinct offense.

(C) Notwithstanding division (B) above, this chapter may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(D) Nothing in this section shall be construed to limit the use of remedies available to the town. The town may seek to enforce this chapter by using any one, all or a combination of remedies.

(Ord. passed 12-1-1993)

## **CHAPTER 153: ZONING**

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### Section

#### ***Short Title, Jurisdiction and Purpose***

- 153.001 Short title
- 153.002 Jurisdiction
- 153.003 Purpose

#### ***Establishment of Districts***

- 153.015 Interpretation of district boundaries

#### ***District Use Regulations***

- 153.030 Generally
- 153.031 RA-Residential Agricultural
- 153.032 R15-Single-Family Residential
- 153.033 R10-Residential District
- 153.034 MH-Mobile Home Park
- 153.035 GB-General Business
- 153.036 LI-Light Industrial District

#### ***Conditional Uses***

- 153.050 Objectives and purpose
- 153.051 Procedure for conditional use permits approved by the Board of Adjustment
- 153.052 Regulations for permitted conditional uses

#### ***Home Occupations***

- 153.065 Home occupations

Saratoga, NC Code of Ordinances

***General Provisions***

- 153.080 Interpretation and application
- 153.081 Zoning affects all land and buildings
- 153.082 More than one principal building on lot
- 153.083 Reduction or change in lot size
- 153.084 Maintenance of open spaces
- 153.085 Location of accessory uses or buildings
- 153.086 Visibility at intersections
- 153.087 Street access
- 153.088 Lots with multiple frontage
- 153.089 Minimum frontage
- 153.090 Uses prohibited
- 153.091 Required buffers
- 153.092 Walls and fences
- 153.093 Substandard lots of record
- 153.094 Exception to height regulations
- 153.095 No structure in public right-of-way
- 153.096 Establishment of a zoning vested right

***Nonconforming Uses***

- 153.110 Intent
- 153.111 Nonconforming structures
- 153.112 Nonconforming use
- 153.113 Repairs
- 153.114 Avoid undue hardship

***Off-Street Parking and Loading Requirements***

- 153.125 Off-street parking
- 153.126 Off-street loading

***Signs***

- 153.140 Purpose
- 153.141 Signs not requiring a permit
- 153.142 Separate use signs (billboards)
- 153.143 Principal use signs

***Administration, Enforcement and Right of Appeal***

- 153.155 Zoning Administrator
- 153.156 Zoning permit required
- 153.157 Certificate of occupancy required
- 153.158 Application for zoning permit and certificate of occupancy
- 153.159 Records and invalidation
- 153.160 Right of appeal

***Appointed Boards (Land-Use Related); Board of Adjustment***

- 153.175 Board of Adjustment; creation and membership
- 153.176 Proceedings of the Board of Adjustment
- 153.177 Powers and duties

Saratoga, NC Code of Ordinances

153.178 Appeals

***Appointed Boards (Land-Use Related); Planning Board***

153.190 Creation and membership

153.191 Organization and proceedings of the Planning Board

153.192 Duties and responsibilities

153.193 Advisory committees

***Amendments***

153.205 Generally

153.206 Amendment on motion of Town Board

153.207 Petition for amendment

153.208 Planning Board review and recommendation

153.209 Public hearing by Town Board of Commissioners

153.210 Vote of the Town Board of Commissioners

153.211 Protest against amendment

153.212 Denial of petition

153.213 Zoning classification action

***Interpretations and Definitions***

153.225 Word interpretations

153.226 Tense and number

153.227 Definitions

***Legal Status***

153.240 Interpretation, purpose and conflict

153.241 Validity

153.242 Effective date

153.999 Penalty

**SHORT TITLE, JURISDICTION AND PURPOSE**

**§ 153.001 SHORT TITLE.**

These regulations shall be known, referred to and cited as the “Zoning Ordinance for the Town of Saratoga, North Carolina.”

(Ord. eff. 4-3-1984)

**§ 153.002 JURISDICTION.**

(A) The provisions of this chapter shall apply within the corporate limits and the extraterritorial jurisdiction of the town.

## Saratoga, NC Code of Ordinances

(B) (1) The zoning map of the town is amended so as to extend the zoning boundary not exceeding one mile from the corporate limits of the town as shown on a zoning map which is dated June 2, 1993 and identified as official zoning map of extraterritorial area of town.

(2) The area lying outside of and beyond the corporate limits of the town as shown on said map is hereby divided into zones or districts in accordance with said map and the provisions of the town's zoning regulations as amended is hereby made applicable in every respect for each of the zones within this extraterritorial area as indicated on the zoning map.

(3) The zoning chapter as amended of the town shall be applicable within the extraterritorial area in the same manner as it is now applicable within the corporate limits of the town.

(Ord. eff. 4-3-1984; Ord. passed - -)

### **§ 153.003 PURPOSE.**

The purpose of these regulations shall be to accomplish a coordinated, balanced and harmonious development of the land within the corporate limits and the extraterritorial jurisdiction of the town, in a manner which will best promote the health, safety, morals, convenience, order, prosperity and general welfare of the people, as well as to provide for efficiency and economy in the process of development; to make adequate provisions for traffic; to secure safety from fire, panic and other hazards; to provide for light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; and to protect property against blight and depreciation.

(Ord. eff. 4-3-1984)

## **ESTABLISHMENT OF DISTRICTS**

### **§ 153.015 INTERPRETATION OF DISTRICT BOUNDARIES.**

(A) The locations and boundaries of each of the zoning districts shall be shown on the map accompanying this chapter and made a part hereof, entitled, "Official Zoning Map, Saratoga, North Carolina," and adopted by the Town Board of Commissioners. The zoning map and all the notations, references and amendments thereto, and other information shown are hereby made a part of this chapter. The zoning map shall be kept on file in the office of the Town Clerk and shall be available for inspection by the public.

(1) The map shall be identified by the signature of the Mayor, attested by the Town Clerk, and bearing the official seal of the town under the following words: "This is to certify that this is the Official Zoning Map of the Zoning Ordinance for the Town of Saratoga, North Carolina." The date of adopting shall also be shown.

(2) If, in accordance with the provisions of this chapter, changes are made in the zoning district boundaries or other matter shown on the map, such changes shall be made



together with an entry on the map as follows: “On (date) by official action of the Town Board of Commissioners the following changes were made in the Official Zoning Map: (brief description or nature of change).” The entry shall be signed by the Mayor and attested by the Town Clerk. No amendment to this chapter which involves matters portrayed on the map shall become effective until after such change and entry has been made on said map.

(3) In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the Town Board may by ordinance adopt a new official zoning map which shall be the same in every detail as the map it supersedes. The new map shall bear the signatures of the current officials and shall bear the seal of the town under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map replaced).” The date of adoption of the new official zoning map shall be shown also.

(B) The boundaries of such districts as are shown upon the map attached to this chapter are hereby adopted. The provisions of this chapter governing within each type of district the use of land and buildings, height of buildings, building site areas, sizes of yards around buildings, and other matters as are hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every district as shown upon said map.

(C) Where uncertainty exists with respect to the location of certain boundaries of districts as shown on the official zoning map, the following rules shall apply.

(1) Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerline.

(2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.

(3) Boundaries indicated as approximately following town limit lines shall be construed to follow such town limit lines.

(4) Boundaries indicated as following the rights-of-way of railroad lines shall be construed to follow such rights-of-way.

(5) Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerline.

(6) Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(7) Where physical and cultural features existing on the ground are at variance with those shown on the official zoning map, the Board of Adjustment shall interpret the zoning map.

(Ord. eff. 4-3-1984)

## **DISTRICT USE REGULATIONS**

### **§ 153.030 GENERALLY.**

For the purposes of this chapter, the town is hereby divided into the following use districts.

(Ord. eff. 4-3-1984)

**§ 153.031 RA-RESIDENTIAL AGRICULTURAL.**

(A) *Purpose.* The purpose of this district shall be to create an area in which residential and agricultural uses can be compatibly mixed, achieving a healthful living environment for the residents of the district and at the same time preventing the development of blight and slum conditions. This district is limited to those agricultural sections of the jurisdictional area in which the mixing of such uses has been found to be necessary and desirable.

(B) *Permitted uses.*

(1) Accessory buildings, provided there be no more than two non-farm buildings per lot;

(2) Agricultural and horticultural crops or emblems and other products planted, cultivated, harvested, raised, produced, processed and/or grown on or from the land or soil, for sale or otherwise, but excluding the following enumerated uses which are not permitted:

(a) Business or commercial hog or swine operations or parlors;

(b) Business or commercial chicken houses;

(c) Business or commercial turkey houses;

(d) Business or commercial stables for keeping horses, cows and other animals;

(e) Any livestock operations or business enterprises involving the breeding, raising, keeping, feeding and selling of domestic or wild animals for business or commercial purposes or for profit; and

(f) 1. The breeding, raising, keeping, feeding and selling of poultry, fowls and birds, domestic or wild, for business or commercial purposes or for profit.

2. The breeding, raising, keeping and feeding of domestic animals, fowls, poultry and birds, including without limiting the generality thereof, hogs, swine, cows, sheep, chickens, turkeys, geese, ducks and the like for personal use or consumption by the owners, tenants, lessees and/or occupants of the land is permitted.

(3) Cemeteries;

(4) Churches and customary accessory uses;

(5) Family care homes, provided that no such home may be located within one-half mile radius of an existing family care home;

(6) Forestry;

(7) Home occupations, as defined in § 153.065;

(8) Mobile homes (individual), providing all requirements in § 153.052(I) are met;

(9) Public parks and playgrounds, community centers, athletic fields, clubs and lodges, golf courses and swimming pools;

(10) Public safety facilities; including fire, police and rescue facilities;

(11) Schools, public and private;

(12) Single-family dwellings;

(13) Two-family dwellings; and

(14) Utilities (low impact), located on a lot or within an easement of 6,000 square feet or less (no outside storage allowed).

Saratoga, NC Code of Ordinances

(C) *Conditional uses.*

- (1) Mobile classrooms;
- (2) Mobile homes (hardship);
- (3) Nonconforming re-use of an existing building; and
- (4) Planned unit development.

(D) *Dimensional requirements.*

Maximum building height	35 ft.
Minimum lot area	
Nonresidential uses	20,000 sq. ft.
Single-family dwellings	20,000 sq. ft.
Two-family dwellings	30,000 sq. ft.
Minimum lot size	
Nonresidential	Width 100 ft., depth 150 ft.
Residential	Width 100 ft., depth 150 ft.
Minimum yard	
Nonresidential	
Front	35 ft.
Rear	40 ft.
Side	25 ft. (on corner lots same as front yard)
Residential	
Front	30 ft.
Rear	30 ft.
Side	20 ft. (on corner lots same as front yard)

(E) *Off-street parking and loading.* Shall be provided as required by §§ 153.125 and 153.126.

(Ord. eff. 4-3-1984; Ord. passed 6-2-1993; Ord. 2010-08, passed 3-31-2010; Ord. 2012-01, passed 7-11-2012)

**§ 153.032 R15-SINGLE-FAMILY RESIDENTIAL.**

(A) *Purpose.* The purpose of this district shall be to maintain a minimum lot size of 15,000 square feet and to allow for single-family dwellings and such other uses which would not

Saratoga, NC Code of Ordinances

be detrimental to this district in order to protect the property in this district from the depreciating effects of more densely developed residential uses.

(B) *Permitted uses.*

(1) Accessory buildings, provided there be no more than two such buildings per lot;

(2) Churches and customary accessory uses;

(3) Dwellings, single-family;

(4) Family care homes, provided that no such home may be located within one-half-mile radius of an existing family care home;

(5) Schools, kindergartens and elementary; and

(6) Utilities (low impact), located on a lot or within an easement of 6,000 square feet or less (no outside storage allowed).

(C) *Conditional uses.*

(1) Mobile classrooms;

(2) Mobile home (hardship);

(3) Nonconforming re-use of an existing building;

(4) Planned unit development;

(5) Private recreation facilities;

(6) Public recreation facilities; and

(7) Public safety and utility facilities.

(D) *Dimensional requirements.*

Maximum building height	35 ft.
Minimum lot area	
Nonresidential uses	40,000 sq. ft.
Single-family dwellings	15,000 sq. ft.
Minimum lot size	
Nonresidential	Width 150 ft, depth 200 ft.
Residential	Width 80 ft, depth 150 ft.
Minimum yard	
Nonresidential	
Front	30 ft.
Rear	30 ft.
Side	20 ft. (on corner lots same as front yard)
Residential	
Front	30 ft.
Rear	25 ft.

Saratoga, NC Code of Ordinances

Side	10 ft. (on corner lots same as front yard)
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(E) *Off-street parking and loading.* Shall be provided as required by §§ 153.125 and 153.126. (Ord. eff. 4-3-1984; Ord. 2010-08, passed 3-31-2010; Ord. 2012-01, passed 7-11-2012)

**§ 153.033 R10-RESIDENTIAL DISTRICT.**

(A) *Purpose.* The purpose of this district shall be to provide for a compatible mixture of single-family, two-family and multi-family dwellings through the use of adequate controls to ensure that high density residential development will not be detrimental to the neighborhood.

(B) *Permitted uses.*

- (1) Agriculture, including sale and processing of products produced on the premises;
- (2) Accessory buildings, provided there be no more than two such buildings per lot;
- (3) Churches and customary accessory uses;
- (4) Dwellings, single-family and two-family;
- (5) Family care homes, provided that no such home may be located within one-half mile radius of an existing family care home;
- (6) Home occupations;
- (7) Mobile homes, providing all requirements of § 153.052(I) are met;
- (9) Public park and recreation facilities;
- (10) Schools, nursery, kindergartens and elementary; and
- (11) Utilities (low impact), located on a lot or within an easement of 6,000 square feet or less (no outside storage allowed).

(C) *Conditional uses.*

- (1) Clubs, lodges, fraternal organizations;
- (2) Dwellings, multi-family;
- (3) Mobile classrooms;
- (4) Mobile homes (hardship);
- (5) Nonconforming re-use of an existing building;
- (6) Planned unit development;
- (7) Private recreation facilities; and
- (8) Rooming, tourist and boarding homes.

(D) *Dimension requirements.*

Maximum building height	35 ft.
Minimum lot area	
Nonresidential uses	20,000 sq. ft.
Multi-family	10,000 sq. ft; 3,500 sq. ft for each additional unit

Saratoga, NC Code of Ordinances

Single-family dwellings	10,000 sq. ft.
Two-family dwellings	15,000 sq. ft.
Minimum lot size	
Nonresidential	Width 80 ft., depth 150 ft.
Residential	Width 65 ft., depth 125 ft.
Minimum yards	
Nonresidential	
Front	30 ft.
Rear	30 ft.
Side	15 ft. (on corner lots same as front yard)
Residential	
Front	25 ft.
Rear	25 ft.
Side	10 ft. (on corner lots same as front yard)

(E) *Off-street parking and loading.* Shall be provided as required by §§ 153.125 and 153.126.

(Ord. eff. 4-3-1984; Ord. 2010-08, passed 3-31-2010; Ord. 2012-01, passed 7-11-2012)

**§ 153.034 MH-MOBILE HOME PARK.**

(A) *Purpose.* The purpose of this district shall be to provide space for the development of mobile home parks, which incorporate good design to ensure a healthful living environment for its residents, and the surrounding neighborhood.

(B) *Permitted uses.*

(1) Accessory buildings, provided there be no more than two such buildings per lot;

(2) Churches;

(3) Dwellings, single-family and two-family;

(4) Family care homes, provided that no such home may be located within one-half-mile radius of an existing family care home;

(5) Home occupations;

(6) Mobile homes, provided that only one mobile home per lot shall be allowed;

(7) Mobile home park;

Saratoga, NC Code of Ordinances

- (8) Public recreation facilities;
- (9) Schools, kindergartens; and
- (10) Utilities (low impact), located on a lot or within an easement of 6,000 square feet or less (no outside storage allowed).

(C) *Conditional uses.*

- (1) Mobile classrooms;
- (2) Mobile home (hardship);
- (3) Nonconforming re-use of an existing building;
- (4) Planned unit development;
- (5) Private recreation facilities; and
- (6) Public safety and utility facilities.

(D) *Dimensional requirements.*

Maximum building height	35 ft.
Minimum lot area	
Mobile home dwelling	10,000 sq. ft.
Mobile home park	3 acres
Nonresidential uses	20,000 sq. ft.
Single-family dwellings	10,000 sq. ft.
Two-family dwellings	15,000 sq. ft.
Minimum lot size	
Nonresidential	Width 80 ft., depth 150 ft.
Residential	Width 65 ft., depth 125 ft.
Minimum yards	
Nonresidential	
Front	30 ft.
Rear	30 ft.
Side	15 ft. (on corner lots same as front yard)
Residential	
Front	25 ft.
Rear	25 ft.
Side	10 ft. (on corner lot same as front yard)
Mobile home park; lot requirements	6,000 sq. ft.; 50 ft. width at street line 5 mobile

Saratoga, NC Code of Ordinances

	homes per gross acre
Setbacks	40 ft. from a state road or city street right-of-way
	30 ft. from exterior boundary of the park
	20 ft. from another mobile home
	20 ft. from an internal street in the park

(E) *Off-street parking and loading.* Shall be provided as required by §§ 153.125 and 153.126.  
(Ord. eff. 4-3-1984; Ord. 2010-08, passed 3-31-2010; Ord. 2012-01, passed 7-11-2012)

**§ 153.035 GB-GENERAL BUSINESS.**

(A) *Purpose.* The purpose of this district shall be to provide for, enhance and protect shopping facilities in the General Business District.

(B) *Permitted uses.*

- (1) ABC stores;
- (2) Agriculture supply sales;
- (3) Apparel sales;
- (4) Automobile parts sales;
- (5) Automobile repair service;
- (6) Automobile sales;
- (7) Automobile service stations, including self-service gas pumps;
- (8) Banks;
- (9) Beauty and barber shops;
- (10) Building supply sales;
- (11) Cabinet shops;
- (12) Candle making;
- (13) Church;
- (14) Department stores;
- (15) Drug stores;
- (16) Electrical appliance sales and service;
- (17) Feed and grain sales and storage;
- (18) Florist and gift shops;
- (19) Food and grocery stores;
- (20) Funeral homes;
- (21) Furniture sales;
- (22) Hardware stores;
- (23) Jewelry sales and watch repair;
- (24) Medical clinics;
- (25) Motels;
- (26) Offices for business, professional and personal services;
- (27) Public buildings and uses;



Saratoga, NC Code of Ordinances

- (28) Restaurants;
- (29) Shoe repair; and
- (30) Utilities (low impact), located on a lot or within an easement of 6,000 square feet or less (no outside storage allowed).

(C) *Conditional uses.*

- (1) Electronic gaming operations; and
- (2) Nonconforming re-use of an existing building.

(D) *Dimensional requirements.*

Maximum building height	35 ft.
Maximum yards	None
Minimum lot area	None
Minimum lot size	None

(E) *Off-street parking and loading.* None, except where specifically included as a requirement for a conditional use.

(Ord. eff. 4-3-1984; Ord. 2010-07, passed 3-31-2010; Ord. 2010-08, passed 3-31-2010; Ord. 2012-01, passed 7-11-2012)

**§ 153.036 LI-LIGHT INDUSTRIAL DISTRICT.**

(A) *Purpose.* The purpose of this district shall be to create and protect areas for those industrial uses which do not create excessive noise, odor, smoke, dust and which do not possess other objectionable characteristics which might be detrimental to surrounding neighborhoods or to the other uses permitted in the district.

(B) *Permitted uses.*

(1) Agricultural and horticultural crops or emblems and other products planted, cultivated, harvested, raised, produced, processed and/or grown on or from the land or soil, for sale or otherwise, but excluding the following enumerated uses which are not permitted:

- (a) Business or commercial hog or swine operations or parlors;
- (b) Business or commercial chicken houses;
- (c) Business or commercial turkey houses;
- (d) Business or commercial stables for keeping horses, cows and other

animals;

(e) Any livestock operations or business enterprises involving the breeding, raising, keeping, feeding and selling of domestic or wild animals for business or commercial purposes or for profit; and

(f) 1. The breeding, raising, keeping, feeding and selling of poultry, fowls and birds, domestic or wild, for business or commercial purpose or for profit.

2. The breeding, raising, keeping and feeding of domestic animals, fowls poultry and birds, including, without limiting the generality thereof, hogs, swine, cows, sheep, chickens, turkeys, geese, ducks and the like for personal use or consumption by the owners, tenants lessees and/or occupants of the land is permitted.

Saratoga, NC Code of Ordinances

- (2) Agriculture supply sales;
- (3) Automobile service stations, car washes and self-service gas stations;
- (4) Automobile parking lots;
- (5) Boat sales and service;
- (6) Cabinet, woodworking and upholstery shops;
- (7) Cemeteries;
- (8) Feed and grain sales and storage;
- (9) Fertilizer sales and storage;
- (10) Hardware store;
- (11) Lumber and building supply sales;
- (12) Manufacturing and processing of:
  - (a) Electrical equipment;
  - (b) Fabricated metal products;
  - (c) Food and kindred products;
  - (d) Lumber and wood products;
  - (e) Medical supplies;
  - (f) Paper products;
  - (g) Plastic products;
  - (h) Printing, publishing and allied industries;
  - (i) Professional, scientific, photographic and optical goods; and
  - (j) Stone, clay, glass and concrete products.
- (13) Mobile offices, providing the requirements of § 153.052(J) are met;
- (14) Restaurants;
- (15) Tire sales and retreading shops;
- (16) Utilities (low impact), located on a lot or within an easement of 6,000 square feet or less (no outside storage allowed); and
- (17) Wholesale and warehouse storage.

(C) *Conditional uses.*

- (1) Bulk storage of oil, liquid petroleum, gasoline, natural gas and other flammable materials;
- (2) Junk and salvage yards;
- (3) Kennels;
- (4) Nonconforming re-use of an existing building;
- (5) Public safety and utility facilities; and
- (6) Sanitary landfills.

(D) *Dimensional requirements.*

Maximum building height	35 ft.
Minimum lot area	20,000 sq. ft.
Minimum lot size width	75 ft., depth 150 ft.
Minimum yards	
Front	40 ft.
Rear	30 ft.

Side	25 ft. (on corner lots same as front yard)
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(E) *Off-street parking and loading.* Shall be provided as required by §§ 153.125 and 153.126. (Ord. eff. 4-3-1984; Ord. passed 6-2-1993; Ord. 2010-08, passed 3-31-2010; Ord. 2012-01, passed 7-11-2012)

## CONDITIONAL USES

### § 153.050 OBJECTIVES AND PURPOSE.

(A) Permitted conditional uses add flexibility to the zoning regulations. Subject to good planning and design standards, certain uses of property are allowed in specified districts where those uses would not otherwise be acceptable. By means of controls exercised through the conditional use permit procedures, uses of property which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties.

(B) The uses which require conditional use permits are listed in § 153.052 of this subchapter. Uses specified in § 153.052 shall be permitted only upon the issuance of a conditional use permit. (Ord. eff. 4-3-1984)

### § 153.051 PROCEDURE FOR CONDITIONAL USE PERMITS APPROVED BY THE BOARD OF ADJUSTMENT.

(A) A conditional use permit may be issued by the Zoning Enforcement Officer after approval by the Board of Adjustment for the uses as designated in the district regulations. The application for a conditional use permit shall accompany the application for a zoning permit. The Board of Adjustment shall hold a public hearing prior to rendering a decision on the conditional use permit, and if approved, shall include approval of such plans as may be required. In approving the permit, the Board of Adjustment shall find:

(1) The use will not materially endanger the public health, safety or general welfare if located where proposed and developed according to the plan as submitted and approved;

(2) The use meets all required conditions; and

(3) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the town and its environs.

(B) In approving the conditional use permit, the Board of Adjustment may designate such conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious and with the spirit and intent of this chapter. All such additional conditions shall be entered in the minutes of the meeting at which the conditional

use permit is granted, on the conditional use permit, and on the plans submitted therewith. All conditions shall run with the land and shall be binding on the original applicant for the conditional use permit, the heirs, successors and assigns. In order to ensure that such conditions and requirements of each conditional use permit will be fulfilled, the petitioner for the conditional use permit may be required to make physical improvements as a basis for the issuance of the conditional use permit.

(C) If the Board of Adjustment denies the conditional use permit, the reasons therefor shall be entered in the minutes of the meeting at which the permit is denied.

(D) In addition to the specific conditions imposed by § 153.052 and whatever additional conditions the Board of Adjustment deems to be reasonable and appropriate, conditional uses shall comply with the height, yard, area and parking regulations of the zone in which they are located.

(E) In the event of failure to comply with the plans approved by the Board of Adjustment, or with any conditions imposed upon the conditional use permit, the permit shall thereupon immediately become void and of no effect. No zoning permits for further construction or certificate of occupancy/compliance under the conditional use permit shall be issued, and the use of all completed structures shall immediately cease and not thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.

(F) Where plans are required to be submitted and approved as part of the application for conditional use permit, modifications of the original plans may be made by the Board of Adjustment.

(G) Any use of land or of a building, existing prior to the effective date of this chapter, which is permitted as a conditional use in the district in which it is located, shall be issued a conditional use permit by the Zoning Enforcement Officer at the time this chapter is adopted. Such use shall continue as a permitted conditional use, even if it does not meet all of the conditions imposed by this chapter. However, any future changes in the conditional use must follow the normal procedure set forth by this chapter.

(Ord. eff. 4-3-1984)

## **§ 153.052 REGULATIONS FOR PERMITTED CONDITIONAL USES.**

The Board of Adjustment may grant permission for the establishment of the following uses, subject to any specific conditions, either set forth below, or which said Board may deem necessary to satisfy the conditions stated above.

(A) *Bulk storage of oil, gasoline and other flammable materials.*

(1) The front, rear and side yards be a minimum of 50 feet;

(2) The storage area shall be enclosed by a fence, at least six feet in height;

(3) The yard perimeter shall be planted with a buffer strip which meets the definition in this chapter of a buffer strip; and

(4) The tanks and other storage facilities shall meet the requirements of the National Fire Protection Association.

(B) *Clubs, lodges and fraternal organizations.* A club or lodge may be permitted subject to the requirements of the districts and provided that:

(1) All new sites shall be no less than one acre in size;

(2) The structure shall have minimum front, side and rear yards of 50 feet; and

Saratoga, NC Code of Ordinances

(3) Provisions for food, refreshment and/or entertainment for club members and their guests may be allowed in conjunction with such uses if the Board of Adjustment determines that said provisions will not constitute a nuisance.

(C) *Electronic gaming operations.*

(1) Special regulation of these establishments is necessary in order to minimize the potentially deleterious secondary impacts which can reasonably be expected to result from the inappropriate location and/or concentration of such uses.

(2) This use is only allowed in the GB district, subject to compliance with the following standards.

(a) No electronic gaming operation shall be located within 5,000 feet of any other such establishment as measured along the shortest straight line between the closest exterior walls of the buildings of the existing and proposed use.

(b) No electronic gaming operation shall be located within 750 feet of any building used by a church or other religious establishment as measured along the shortest straight line between the closest exterior walls of the buildings of the existing and proposed use.

(c) No electronic gaming operation shall be located within 400 feet of any R-10 or R-15 (residentially) zoned property, as measured along the shortest straight line between the closest exterior wall of the proposed use and the closest property line of these R-zoned properties.

(d) No such establishment shall be open for business between the hours of 10:00 p.m. and 9:00 a.m. on weekdays and Saturdays, and between 10:00 p.m. Saturday and 9:00 a.m. on Monday.

(e) The maximum number of machines that shall be permitted at any such operation is 20.

(f) No one under 18 years of age shall be permitted to enter any such premises when they are open for business.

(g) One employee (in addition to all other regular employees) whose sole responsibility shall be to provide on-site security shall be present during all hours of operation. (In other words, a minimum of two employees shall be present whenever the establishment is open for business.)

(h) Off-street parking shall be provided at a rate of one space per every machine/game plus one for each employee, or one space per 200 square feet of enclosed floor area, whichever is greater.

(i) Lighting shall be provided on all four sides of the establishment and shall be positioned as not to disturb or allow direct light to leave the site into residentially zoned properties or adjacent public rights-of-way.

(j) This use shall only be permitted in the town's jurisdiction, so long as it is not prohibited by state or federal law, and all applicable permits and licenses have been obtained.

(D) *Hospitals, clinics, health center, nursing and rest homes.*

(1) The minimum lot size shall be two acres; and

(2) The structure shall have minimum front, side and rear yards of 50 feet.

(E) *Junk and salvage yards.*

(1) The minimum front, side and rear yards shall be 50 feet;

(2) The storage area shall be screened by a continuous visual buffer at least eight feet in height; and

Saratoga, NC Code of Ordinances

(3) Salvaged auto parts shall not be allowed to collect water, which provides breeding ground for mosquitos and other insects, or harbor breeding grounds for rats and other rodents.

(F) *Kennels*. Kennels may be permitted subject to the requirements of the district and provided that:

- (1) The minimum lot size shall be on one acre; and
- (2) The minimum yards shall be 35 feet.

(G) *Mobile home (hardship)*. As a hardship in any residential zone, provided that the mobile home is not the principal dwelling on the lot and that it complies with the following requirements.

(1) A temporary certificate of occupancy for parking a mobile home for use for dwelling purposes to the rear or side of a dwelling and located on the same residential lot as said dwelling may be issued by the Zoning Enforcement Officer or his or her authorized agents in certain hardship cases where the Board of Adjustment finds each item below as a fact:

(a) The person or persons occupying the mobile home are physically dependent upon the person or persons occupying all or a portion of the principal dwelling unit, or that the person or persons occupying all or a portion of the dwelling unit are physically dependent upon the person or persons occupying the mobile home;

(b) The person or persons occupying the mobile home and/or dwelling house, cannot, because of financial or other conditions, move to avoid hardship, necessitating parking the mobile home adjacent to the dwelling house; and

(c) The mobile home is parked in a location approved in advance by the Zoning Enforcement Officer.

(2) All such certificates of occupancy shall be valid for a period of two years, after which they shall be renewed only upon a similar finding of facts by the Board of Adjustment is valid. If, during any time that a certificate of occupancy shall automatically be revoked and the mobile home shall be removed.

(3) Other requirements for hardship exceptions.

(a) Mobile homes used as a dwelling shall have at least 200 square feet of gross floor area.

(b) Mobile homes located through the issuance of a conditional use permit must comply with the provisions pertaining to a mobile home foundation and anchorage of the mobile home to the foundation contained in the *State of North Carolina Regulations for Mobile Homes*, most current edition.

(H) *Use; mobile homes (individual)*.

(1) *Minimum lot area*. Shall meet the minimum lot area for the particular district in which the mobile home will be located.

(2) *Other requirements*.

(a) All mobile homes must be placed on a permanent foundation of brick or concrete block which meet the specifications of the state for mobile homes, and tied securely to this foundation;

(b) All mobile homes must comply with the State Residential Building Code as a residential structure and/or have received a state validation stamp attesting to the compliance of the Code; and

(c) The mobile home's sanitary facilities are connected.

(I) *Use; mobile home (individual) for office and/or exhibition*.

Saratoga, NC Code of Ordinances

(1) *Minimum lot area.* None.

(2) *Parking.* Three spaces for each person employed in office at any given time during a 24-hour period.

(3) *Office and exhibition.*

(a) A temporary certificate of occupancy/compliance allowing mobile homes used solely as offices or for purposes of exhibition to be temporarily parked, maintained and/or occupied on a designated lot or land location may be issued by the Zoning Enforcement Officer or his or her authorized agent where the Board of Adjustment finds as a fact that the use of such mobile home does not violate the County or State Building Code or health regulations. All such certificates of occupancy/compliance shall be valid for a period of 12 months, after which they may be renewed for a period of 12 months.

(b) Notwithstanding the foregoing, a certificate of occupancy/compliance may be issued for a mobile home for use as a temporary field office for contractors by the Zoning Enforcement Officer or his or her authorized agents without approval of the Board of Adjustment if the mobile home and:

1. The structure under construction are located on the same property;
2. Is not moved to the site more than 30 days prior to construction and is removed no later than 30 days after construction has been completed;
3. Is not used for any other purpose other than that connected with on-site construction;
4. Is justified by the size and nature of the construction project;
5. Is for a period not to exceed 18 months;
6. Is used only incidentally to on-site construction during daylight hours and not for residential living quarters;
7. Is parked in a location approved in advance by the Zoning Enforcement Officer or his or her authorized agent; and
8. Sanitary facilities are connected.

(4) *Mobile classroom.* Also notwithstanding the foregoing, a certificate of occupancy/compliance may be issued for a mobile home for use as a mobile classroom by a public or private school, school administrative mobile office and for a mobile home sales office without approval of the Board of Adjustment if the:

- (a) Sanitary facilities are connected with an approved sewer system;
- (b) Electrical facilities are connected in compliance with regulations set forth in the National Electrical Code, most current edition; and

(c) Provisions pertaining to a mobile home foundation and anchorage of the mobile home to the foundation contained in the *State of North Carolina Regulations for Mobile Homes*, most current edition.

(J) *Multi-family dwellings.*

(1) A site plan of the proposed project shall be submitted to the Town Planning Board for review. The Planning Board will have 30 days within which to make a recommendation to the Board of Adjustment.

(2) Accessory building, garbage and trash facilities and recreation facilities may be located in the required rear yard, provided that such uses shall be at least 15 feet from the principal building and at least 15 feet from any lot line.

Saratoga, NC Code of Ordinances

- (3) Garbage and trash facilities shall be subject to the approval of the Town Board.
- (4) All parking shall be off-street. No parking space shall have direct access to a public street or road.
- (K) *Planned unit development (residential).*
- (1) The minimum lot size shall be five acres.
- (2) A minimum of 25% of the total acreage shall be reserved for open space.
- (3) A minimum of two off-street parking spaces shall be provided for each dwelling unit.
- (4) A site plan of the planned unit development shall be submitted to the Town Planning Board for review. The Planning Board must submit a recommendation to the Board of Adjustment within 30 days of its first consideration.
- (L) *Private recreation facility.*
- (1) The recreation facility must be separated from residential development by a buffer at least 50 feet in depth.
- (2) One off-street parking space shall be provided for every three families.
- (3) Minimum lot size shall be one acre.
- (M) *Public recreation facility.* Same requirements as division (L) above.
- (N) *Public safety and utility facilities.*
- (1) All water treatment and sewage disposal facilities, sanitary landfills and electric substations shall be set back 100 feet from all exterior property lines. This area shall be planted with evergreen shrubs as a buffer strip in compliance with the definition of buffer strip provided in this chapter. The entire perimeter inside the buffer shall be enclosed with a fence, at least six feet in height.
- (2) Minimum lot size shall be one acre.
- (O) *Sanitary landfills.* Same requirements as division (O) above.
- (P) *Nonconforming re-use of an existing building.*
- (1) *Scope.* This use is a conditional use in all zoning districts.
- (2) *Conditions.* All of the conditions specified in § 153.112 must be followed.
- (3) *Building requirements.* This use is restricted to existing buildings that previously contained a nonconforming use where said existing building is suited for the nonconforming use proposed. If such an existing building is ever demolished, damaged beyond 60% of its tax value at the time of such damage or removed from the site, then the permit for this use shall become null and void.
- (4) *Use restrictions.* Only those nonconforming uses that are likely to be somewhat compatible with the adjacent and immediately surrounding properties (in terms of noises glare, dust, vibration, smoke, vehicular and pedestrian traffic and similar characteristics) may be permitted. Those uses that are clearly incompatible with the adjacent and immediately surrounding properties (based on the characteristics listed in the previous sentence) shall not be permitted. (As an example, a heavy industrial use within a residential neighborhood would not be appropriate, whereas a heavy industrial use in a commercial area might be appropriate.)
- (5) *Length of permit approval.* Any conditional use permit approved for this use, shall be valid for a period of one year, after which the permit may be renewed for an additional year upon a similar finding of facts by the permit issuing authority.



(6) *Landscaping requirements.* Consideration shall be given by the permit issuing authority as to whether any buffering/screening is needed to help ensure that the proposed use is compatible with the adjacent and immediately surrounding properties.

(7) *Parking and loading requirements.* The requirements of §§ 153.125 and 153.126 shall be followed where adequate space is available (on-site or at an approved remote location), otherwise consideration shall be given by the permit issuing authority as to whether the available parking is sufficient to meet the needs of the use, without creating public safety issues.

(8) *Clear sight distances.* Any obstructions to NCDOT or town required sight distances at the intersections of street rights-of-way, that are determined to create a potential public safety issue for motorists/pedestrians are required to be removed prior to issuance of the permit for this use. An exception to this requirement is that an existing building on a permanent foundation is not required to be removed.  
(Ord. eff. 4-3-1984; Ord. 2010-07, passed 3-31-2010; Ord. 2012-01, passed 7-11-2012)

## HOME OCCUPATIONS

### § 153.065 HOME OCCUPATIONS.

Home occupations are permitted only as an incidental use and must comply with the following regulations.

(A) No more than one person other than a resident of the dwelling shall be engaged in such occupations.

(B) No more than 25% of the total actual floor area or 500 square feet, whichever is less, shall be used for the home occupation.

(C) Any need for parking generated by the conduct of the home occupation shall be met off the street.

(D) The exterior of the dwelling shall not be altered in such a manner nor shall the occupation within the residence be conducted in such a way as to cause the premises to differ from its residential character in exterior appearance.

(E) The use shall not emit noise beyond that which normally occurs in the applicable zoning district, nor shall it emit dust, vibration, odor, smoke, fumes, glare, electrical interference, interference to radio or television reception or other nuisance and shall not be volatile or present a fire hazard.

(F) No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is conducted.  
(Ord. eff. 4-3-1984) Penalty, see § 153.999

## GENERAL PROVISIONS

### § 153.080 INTERPRETATION AND APPLICATION.

In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations. Except as hereinafter provided, these regulations shall not be deemed to interfere with, abrogate, annul or otherwise affect in any manner whatsoever any easements, covenants or other agreements between parties. Wherever the provisions of these regulations impose greater restrictions upon the use of land or buildings, or require a larger percentage of the lot to be left unoccupied than the provisions of other ordinance, rules, regulations, permits or any easements, covenants or other agreements between parties, the provisions of these regulations shall govern. (Ord. eff. 4-3-1984)

**§ 153.081 ZONING AFFECTS ALL LAND AND BUILDINGS.**

No land, building or structure shall be used, no building or structure shall be erected, and no existing building or structure shall be moved, added to, enlarged or altered except in conformity with these regulations. See § 153.093. (Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.082 MORE THAN ONE PRINCIPAL BUILDING ON LOT.**

In any district, more than one building housing a permitted principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each building as though it were on an individual lot. (Ord. eff. 4-3-1984)

**§ 153.083 REDUCTION OR CHANGE IN LOT SIZE.**

No lot shall be reduced or changed in size so that the total area, minimum frontage, front, side or rear setbacks, lot area per dwelling unit, or other dimensions areas or open spaces required by these regulations are not maintained. No lot shall be reduced in size so as to produce an additional lot which is not in conformity with these regulations, unless said lot is combined with other land to produce a conforming lot or unless said lot is needed and accepted for public use. (Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.084 MAINTENANCE OF OPEN SPACES.**

No yard shall be encroached upon or reduced in any manner, except in conformity with these regulations. No yard for one principal building shall be considered as a yard for any other principal building. Shrubbery, driveways, retaining walls, fences, curbs, ornamental objects and planted buffer strips shall not be construed to be encroachments on yards. (Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.085 LOCATION OF ACCESSORY USES OR BUILDINGS.**

Accessory buildings may be erected in any required side or rear yards, provided no separate accessory building shall be erected within ten feet of any building, or within five feet from any lot lines. No accessory building shall be located on the side yard required on the street side of a corner lot.

(Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.086 VISIBILITY AT INTERSECTIONS.**

On a corner lot, nothing shall be erected, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and ten feet in a triangular area formed by the intersection of the right-of-way of two streets or a street and a railroad, and a diagonal line which intersects the right-of-way lines at two points 25 feet from where the right-of-way intersects.

(Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.087 STREET ACCESS.**

No dwelling shall be erected on a lot which does not have access to a public street.  
(Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.088 LOTS WITH MULTIPLE FRONTAGE.**

In the case of a corner lot having frontage on two or more streets, all buildings shall be set back from each such street a distance equal to the minimum for the front yard requirements for the district. If a building is constructed on a lot having frontage on two roads but not at an intersection, a setback from each road shall be provided equal to the front yard requirement for the district in which the lot is located.

(Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.089 MINIMUM FRONTAGE.**

Where a minimum frontage is specified in these regulations it shall be measured at the front yard setback line.

(Ord. eff. 4-3-1984)

**§ 153.090 USES PROHIBITED.**

If either a use or class of use is not specifically indicated as being permitted in a district, either as a matter of right or as a conditional use, then such use or class of use shall be prohibited in such district.

(Ord. eff. 4-3-1984)

#### **§ 153.091 REQUIRED BUFFERS.**

In order to lessen the impact of incomparable land uses, a buffer strip at least 25 feet in width, with a visual buffer six feet or more in height, shall be provided and maintained to separate those uses which are deemed to have a negative effect on residential areas. When new commercial or manufacturing construction will abut an existing residential district or use, a buffer strip with a visual buffer shall be provided and maintained by the commercial or manufacturing use. In addition, when new residential construction will abut an existing commercial or manufacturing use, or abuts a limited access highway or railroad, the buffer strip and visual buffer shall be provided by the residential developer. This buffer strip shall be a part of the lot(s) and shall be maintained by the lot owner(s) or homeowners association, in the case of commonly owned land.

(Ord. eff. 4-3-1984)

#### **§ 153.092 WALLS AND FENCES.**

The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence or wall. However, no fence or wall shall exceed a height of six feet in any front or side yard, except as provided for in this chapter.

(Ord. eff. 4-3-1984)

#### **§ 153.093 SUBSTANDARD LOTS OF RECORD.**

Where the owner of a lot at the time of adoption of this chapter or his or her successor in title thereto does not own sufficient land to enable him or her to conform to the lot area or lot width requirements of this chapter, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than 20% below the minimum specified in this chapter, and further provided that the County Health Department approves the reduction if on-site water or wastewater facilities are involved. In cases where the lot area and lot width are more than 20% below the minimum specified in this chapter or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions, if the County Health Department submits a letter of approval if on-site water or wastewater facilities are involved. If the pre-existing substandard lot is not in a district where single-family residences are permitted, the Board of Adjustment may issue a variance to allow some reasonable use.

(Ord. eff. 4-3-1984)

**§ 153.094 EXCEPTION TO HEIGHT REGULATIONS.**

Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure to a height up to 35 feet above the surface of the land. The height limitations contained in the district dimensional requirements do not apply to spires, belfries, chimneys or roof structures for the housing of elevators, stairways or air conditioning apparatus. (Ord. eff. 4-3-1984)

**§ 153.095 NO STRUCTURE IN PUBLIC RIGHT-OF-WAY.**

No building, fence or other structure or part thereof, shall be erected or installed in any public road, street, lane or alley or other public right-of-way. (Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.096 ESTABLISHMENT OF A ZONING VESTED RIGHT.**

(A) *Establish.* A zoning vested right shall be deemed established upon the valid approval, or conditional approval, of a site specific development plan, following notice an public hearing.

(B) *Approval.* The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.

(C) *Variance.* Notwithstanding division (A) and (B) above, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(D) *Effective date.* A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.

(E) *Overlay.* The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulations by the town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.

(F) *Attaches and runs with property.* A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(G) *Approval procedures and approval authority.*

(1) Except as otherwise provided in this section, an application for site specified development plan approval shall be processed in accordance with the procedures established in this chapter for a condition use permit, or zoning permit as applicable. The Town

Saratoga, NC Code of Ordinances

Board of Commissioners or Board of Adjustment, as applicable, shall be the final approval authority.

(2) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.

(3) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. § 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until \_\_\_\_."

(4) Following approval or conditional approval of a site specific development plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(5) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning regulations.

(H) *Duration.*

(1) A zoning right that has been vested as provided in this section shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to division (H)(2) below. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(2) Notwithstanding the provisions of division (H)(1) above, the approval authority may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

(3) Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-442 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(I) *Termination.* A zoning right that has been vested as provided in this chapter shall terminate:

(1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(2) With the written consent of the effected landowner;

(3) Upon findings by the Town Board of Commissioners, by ordinance after notice and a public hearing, that natural or human-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site specific development plan;

(4) Upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner, including, but not limiting to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the town, together with interest thereon at the legal

rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such actions;

(5) Upon findings by the Town Board of Commissioners, by ordinance after notice and a hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

(6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(J) *Voluntary annexation.* A petition for annexation filed with the town under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160A-385.1. A statement that declares that no zoning vested right has been established under G.S. § 160A-385.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(K) *Limitations.* Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.

(L) *Repealer.* In the event that G.S. § 160A-385.1 is repealed, this section shall be deemed repealed and the provisions hereof no longer effective.  
(Ord. eff. 4-3-1984; Ord. passed 6-2-1993)

## NONCONFORMING USES

### § 153.110 INTENT.

Within the districts established by this chapter, or amendments that may be adopted later, there may exist lots, structures and uses of land and structure which were lawful before this chapter was passed or amended, but which are prohibited under the terms of this chapter, such lots, structures and uses shall be termed nonconforming. It is the intent of this chapter to permit these nonconformities to continue in their present condition, but they are not to be enlarged, expanded, extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(Ord. eff. 4-3-1984)

### § 153.111 NONCONFORMING STRUCTURES.

Where, at the effective date of adoption or amendment of this chapter, an existing structure could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lots, the use of such structure may be continued so long as the building remains otherwise lawful, subject to the following provisions:

## Saratoga, NC Code of Ordinances

(A) No such structures may be enlarged or altered in a way which increases its nonconformity;

(B) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved; or

(C) A nonconforming structure, which has been damaged by fire, wind, flood or other causes, may be repaired and used as before if repairs are initiated within six months and completed within 12 months of such damage, unless such structure has been declared by the Zoning Administrator to have been damaged to an extent exceeding 75% of its appraised value at the time of destruction. If the structure is declared to be more than 75% destroyed, future use of the structure and site must come into conformance with the regulations for the district in which it is located.

(Ord. eff. 4-3-1984)

### **§ 153.112 NONCONFORMING USE.**

Where, at the effective date of adoption of amendment of this chapter, a lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

(B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter;

(C) No conforming or nonconforming use may be changed to another nonconforming use, except as provided in division (F) below in conformance with this chapter;

(D) Where any nonconforming land, structure or use in part or whole is made to conform to the regulations for the district in which it is located, the part or whole which has been made to conform may not thereafter be changed in such a manner as would be nonconforming;

(E) Nonconforming uses shall not be reestablished after discontinuance for a period of 180 days, except as provided in division (F) below and in conformance with this chapter; or

(F) An existing building that has previously contained a nonconforming use that has ceased for any reason for a continuous period of more than 180 days may be allowed to establish or reestablish a nonconforming use within that building, if a conditional use permit for a nonconforming reuse of an existing building is obtained per §§ 153.051 and 153.052.

(Ord. eff. 4-3-1984; Ord. 2012-01, passed 7-11-2012)

### **§ 153.113 REPAIRS.**

(A) On any building devoted in whole or in part to any nonconforming use, repairs and modernization are permitted providing that the existing total cubic feet of the building shall not be increased.



(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any public official charged with protecting the public safety, upon order of such official.  
(Ord. eff. 4-3-1984)

**§ 153.114 AVOID UNDUE HARDSHIP.**

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of the adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. **ACTUAL CONSTRUCTION** is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, provided that actual construction work shall be diligently carried on until the completion of the building involved.  
(Ord. eff. 4-3-1984)

**OFF-STREET PARKING AND LOADING REQUIREMENTS**

**§ 153.125 OFF-STREET PARKING.**

At the time of erection of any new building, permanent off-street parking shall be provided in all districts, except the GB District, in the amount specified by the section.

(A) Each application for a zoning permit shall include information as to the location and dimensions of off-street parking and loading space, and the means of ingress and egress to such space. This information shall be in sufficient detail to determine whether or not the requirements of this section are met.

(B) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that one-half of the parking space required for churches, theaters or assembly halls, whose peak attendance is at night or Sundays, may be assigned to a use which will be closed at night and/or Sundays.

(C) If the off-street parking space required by this chapter cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the principal use or building, provided such land is in the same ownership as the principal use. Said land shall be used for no other purpose as long as the principal use exists.

(D) The minimum number of required off-street parking spaces shall be calculated from the following table. In the case of a building or use not expressly provided for, the number of off-street spaces shall be the same as for a similar use or inclusive category which is provided for. Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses. The following parking requirements shall be applied as indicated in the table of district use regulations:

Saratoga, NC Code of Ordinances

<i>Use</i>	<i>Required Off-Street Parking</i>
Auditoriums, stadiums and theaters	1 space for every 5 seats
Churches	1 space for every 4 seating spaces in principal sanctuary
Hospitals and nursing homes	1 space for every bed space
Motels, tourist homes and boarding houses	1 space for every rental room
Offices	1 space for every 250 sq. ft. of gross floor area
Residence, duplex	4 spaces
Residence, multi-family	2.5 spaces for each dwelling unit
Residence, single-family	2 spaces
Retail business	0.7 of a space for every 100 sq. ft. of gross floor area (1 space minimum)

(Ord. eff. 4-3-1984)

**§ 153.126 OFF-STREET LOADING.**

(A) Every building or structure used for business, trade or industry hereafter erected, shall provide space, as indicated herein, for the loading and unloading and maneuvering space of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purpose of this section, an off-street loading space shall have minimum dimensions of 12 feet by 40 feet, and an overhead clearance of 15 feet above the alley or street grade.

(B) The number of required off-street loading space shall be as follows:

<i>Use</i>	<i>Required Off-Street Loading Space</i>
Office or institution	1 space for each 50,000 sq. ft. of gross floor area or fraction thereof
Retail business	1 space for each 20,000 sq. ft. of gross floor area or fraction thereof
Wholesale trade and industries	1 space for each 20,000 sq. ft. of gross floor area or fraction thereof

(Ord. eff. 4-3-1984)

**SIGNS**

**§ 153.140 PURPOSE.**

(A) *Generally.* It is the purpose of this section to permit signs of a commercial nature in appropriate districts and to regulate the size and placement of signs intended to be seen from a public right-of-way in the interest of public safety and general welfare. All signs within the

jurisdictional area shall be covered by these regulations and shall be erected, constructed or maintained in accordance with the provisions of this section.

(B) *Location.* No sign shall be erected or constructed so as to interfere with visual clearance along any street or at any intersection of two or more streets or highways. No sign or sign structure shall be located in a street right-of-way, nor shall any sign or sign structure be located within 100 feet of any residential district. No signs mounted on a mobile framework or moveable apparatus shall be permitted.

(C) *Traffic safety.* No sign shall erected or continued that:

- (1) Obstructs the sight distance along a public right-of-way or at intersections;
- (2) Would tend by its location, color or nature to be confused with or obstruct the view of traffic signs or signals or would tend to be confused with a flashing light of an emergency vehicle; or
- (3) Uses admonitions such as “stop,” “go,” “slow,” “danger” and the like which might be confused with traffic directional signals.

(D) *Illumination.* No flashing or intermittent illumination shall be permitted on any sign or structure. Illumination devices such as, but not limited to, flood or spot lights shall be so placed and so shielded as to prevent the rays of illumination therefrom being cast upon neighboring buildings and/or vehicles approaching from either direction.

(E) *Structurally unsafe signs.* Wherever a sign becomes structurally unsafe or endangers the safety of a building or the public, the Zoning Administrator shall order that such sign be made safe or removed. A period of ten days following receipt of said order by the person, firm or corporation owning or using the sign shall be allowed for compliance.

(F) *Nonconforming signs.* Nonconforming signs, when removed, for other than normal maintenance, may not be erected again, nor may any such sign be replaced with another nonconforming sign.

(G) *Setback requirements.*

(1) Sign bases shall be at least ten feet from any right-of-way line or property line and 20 feet from a right-of-way intersection. No part of a freestanding sign shall extend beyond a line projected vertically from two feet inside the right-of-way line and no portion of such sign shall be less than ten feet above the finished grade of the pavement, except as herein provided in the GB District. In no way shall a sign hinder or obstruct visibility on the right-of-way or at intersections.

(2) Separate use signs shall be set back a distance equal to the minimum setback for the district in which they are located.

(3) Where separate use signs and directional signs are located along the boundary line of any district, they shall be set back not less than ten feet from such district boundary line.

(Ord. eff. 4-3-1984)

### **§ 153.141 SIGNS NOT REQUIRING A PERMIT.**

The following type of signs may be allowed in any district without a permit:

(A) *Occupant and house number.* Signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants or other identification not having commercial connotations;

Saratoga, NC Code of Ordinances

(B) *Directional and information signs.* Erected and maintained by public agencies and governmental bodies;

(C) *Professional and home occupation signs.* One sign per lot not to exceed three square feet located at least 12 feet from the street line and side property lines. Where side yards are required, no such sign may be erected in such side yards. Only indirect lighting shall be allowed in a residential district;

(D) *Temporary lease, rent or sale signs.* One sign per lot not to exceed three square feet in area pertaining only to the lease, rental or sale of the property on which displayed. No such sign shall be illuminated in a residential district. Such signs may be indirectly illuminated in nonresidential districts;

(E) *Bulletin boards.* Churches, schools, community centers and similar public and institutional uses may erect one sign or bulletin board not to exceed 12 square feet in area for the purpose of displaying the name of the institution and related information. Such signs shall be used as wall signs or shall be located a minimum of 12 feet from the street line and side lot lines. Where side yards are required, no such sign shall be erected in such side yards. Such signs may be indirectly illuminated;

(F) *Construction signs.* During the construction, repair or alteration of a structure, temporary signs which denote builder or other participants in the project, or which denote the name of the structure and its occupants to be, may be placed within the required yard setbacks as ground, wall or roof signs. The total area of such signs shall not exceed 50 square feet; and

(G) *Subdivision signs.* Subdivision signs advertising the sale of lots or buildings within new subdivisions on which they are located are permitted provided:

(1) They are nonilluminated or indirectly illuminated;

(2) They do not exceed 20 square feet;

(3) Not more than one such sign may be erected at each major entrances to the subdivision;

(4) They meet all requirements applicable to principal structures with respect to yard, setback and height requirements; and

(5) Display of such signs shall be limited to a period of two years, unless the signs are permanent with advertising restricted to the name of the subdivision only, and are dedicated to and accepted by the county, a municipal government, or a lawfully established homeowners or community association responsible for the maintenance of commonly owned properties of the development.

(Ord. eff. 4-3-1984)

**§ 153.142 SEPARATE USE SIGNS (BILLBOARDS).**

(A) Each separate use sign shall require a zoning permit.

(B) A separate use sign may be illuminated.

(C) The total area of each separate use sign shall be limited to 150 square feet.

(D) The minimum distance between separate use signs shall be 100 feet.

(E) Separate use signs shall not be located within 100 feet of any residential district.

(Ord. eff. 4-3-1984)

**§ 153.143 PRINCIPAL USE SIGNS.**

- (A) Each principal use sign shall require a zoning permit.
  - (B) Principal use signs may be indirectly illuminated only.
  - (C) Principal use signs shall not project more than one foot from any building, wall or canopy.
  - (D) If suspended from a canopy, the principal use sign must be at least eight feet above the sidewalk level.
  - (E) Principal use signs shall have a maximum surface area of one square foot for each one linear foot of street frontage, but in no case exceeding a total of 200 square feet in sign area per lot.
  - (F) Freestanding signs shall be limited to two per lot neither of which shall be located in any yard, or within ten feet of a side property line.
  - (G) Freestanding signs shall not exceed 30 feet in height, nor have a horizontal length of more than 20 feet.
- (Ord. eff. 4-3-1984) Penalty, see § 153.999

**ADMINISTRATION, ENFORCEMENT AND RIGHT OF APPEAL**

**§ 153.155 ZONING ADMINISTRATOR.**

The Zoning Administrator, appointed by the Town Board of Commissioners, shall administer and enforce the provisions of this chapter. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, he or she shall notify the person or persons responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall also take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Ord. eff. 4-3-1984) Penalty, see § 153.999

**§ 153.156 ZONING PERMIT REQUIRED.**

No land shall be used, or occupied and no structures shall be erected, moved, extended or enlarged, nor shall any excavation or filling of any lot for the construction of any building be initiated until the Zoning Administrator has issued a zoning permit which will certify that such proposed work is in conformity with the provisions of this chapter.

(Ord. eff. 4-3-1984)

**§ 153.157 CERTIFICATE OF OCCUPANCY REQUIRED.**

No land or building shall be used or occupied until a certificate of occupancy has been issued by the Zoning Administrator, stating that the building or proposed use complies with the provisions of this chapter. A certificate of occupancy, either for the whole or a part of a building

shall be applied for before such structure is occupied, and shall be issued within ten days after the erection or alteration of such building, or part, shall have been completed in conformity with the provisions of this chapter. No previously unoccupied structure shall be occupied until the certificate of occupancy is issued.

(Ord. eff. 4-3-1984)

### **§ 153.158 APPLICATION FOR ZONING PERMIT AND CERTIFICATE OF OCCUPANCY.**

An application for a zoning permit and a certificate of occupancy shall be filed with the Zoning Administrator on a form provided by him or her and shall include two sets of plans showing the dimensions and shape of the parcel to be built on; the sizes; intended uses and location of existing buildings and those proposed; and shall include such other information as may be necessary to determine conformance with this chapter.

(Ord. eff. 4-3-1984)

### **§ 153.159 RECORDS AND INVALIDATION.**

(A) A record of all zoning permits shall be kept on file in the office of the Zoning Administrator.

(B) Any zoning permit issued shall become invalid if the work authorized by it has not been commenced within six months of the date of issuance, or if the work authorized by it is suspended or abandoned for a period of one year.

(Ord. eff. 4-3-1984)

### **§ 153.160 RIGHT OF APPEAL.**

If the zoning permit or occupancy certificates is denied, the applicants may appeal the action of the Zoning Administrator to the Town Board of Adjustment.

(Ord. eff. 4-3-1984)

## **APPOINTED BOARDS (LAND-USE RELATED); BOARD OF ADJUSTMENT**

### **§ 153.175 BOARD OF ADJUSTMENT; CREATION AND MEMBERSHIP.**

(A) *Creation.* The Town Board of Commissioners may create a Board of Adjustment consisting of five members, each to be appointed for three years, subject to the requirements of G. S. § 160A-388 and this section. In appointing the original members of such Board, or in the filling of vacancies caused by the expiration of the terms of existing members, the Board of Commissioners may appoint certain members for less than three years to the end that thereafter

the terms of all members shall not expire at the same time. The Board of Commissioners may, in its discretion, appoint alternate members to serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board and serving on behalf of any regular member, shall have and exercise all the powers and duties of a regular member. All regular members and alternates shall take an oath of office (prescribed in Article VI, § 7 of the North Carolina Constitution) to be administered by the Mayor, Town Clerk or a notary public.

(B) *Initial appointments.*

(1) The initial appointment by the town to the Board of Adjustment shall be as follows.

(2) Three members and one alternate member who are citizens and residents of the town shall be appointed by the Town Board of Commissioners to the following terms:

- (a) One member for a three-year term;
- (b) Two members for two-year terms; and
- (c) One alternate member for a three-year term.

(C) *Additional initial appointments.* Additional initial appointments to the Board of Adjustment, representing the extraterritorial area, shall be made by the county as follows:

(1) Two members and one alternate member shall be appointed by the County Board of Commissioners, consistent with the requirements of G.S. § 160A-362, to the following terms:

- (a) One member for a three-year term;
- (b) One member for a two-year term; and
- (c) One alternate member for a two-year term.

(2) All representatives of the extraterritorial area shall have equal rights, privileges and duties as members appointed by the town, regardless of whether the matters at issue arise within the town or within the extraterritorial area.

(D) *Re-appointments, vacancies and attendance expectations.*

(1) At the end of the term of any member or alternate, such member may be re-appointed, at the discretion of the legislative body authorized to make such appointment.

(2) Vacancies occurring for reasons other than expiration of terms shall be filled for the remainder of the unexpired term. The legislative body responsible for the original appointment shall be given the opportunity to fill such vacancies, consistent with G.S. § 160A-362.

(3) Faithful attendance at Board meetings is expected of all members (and alternates when needed). Failure to attend three consecutive meetings shall be deemed adequate cause for removal of a member by the Town Board of Commissioners.

(Ord. eff. 4-3-1984; Ord. 2010-10, passed 5-5-2010)

**§ 153.176 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.**

(A) No action shall be taken by the Board unless a quorum is present. For quasi-judicial matters, a quorum shall be four members, unless there are vacant positions on the Board and/or members who are disqualified from voting, in which case the quorum requirement shall



be reduced to three, if there are no qualified alternates available to fill the empty position(s). For non-quasi-judicial (administrative) matters, a quorum shall be a simple majority of the current members of the Board.

(B) Within 60 days after the Board of Adjustment is appointed and annually thereafter, the Board shall meet and elect a Chairperson and a Vice Chairperson. The Chairperson shall appoint a Secretary. The Board shall then draw up and adopt rules of procedure under which it will operate. All meetings of the Board shall be open to the public and accurate minutes of each meeting shall be maintained, showing the vote of each member upon each question, of if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and official actions, all of which shall be filed in the office of the Zoning Administrator for the public record.

(C) The concurring vote of four-fifths of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator pursuant to this subchapter, or to decide in favor of the applicant any matter upon which it is required to pass under the provisions of this chapter, or to grant a variance from the provisions of this chapter. For the purposes of this division (C), vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Board" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

(D) A member of the Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(E) Every decision of the Board shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the Board is filed in such office as the chapter specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Secretary or Chairperson of the Board at the time of its hearing of the case, whichever is later. The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return requested.

(F) The Chairperson of the Board of Adjustment is authorized in this official capacity to administer oaths of witnesses in any matter coming before the Board. Any member of the Board while temporarily acting as Chairperson shall have and exercise like authority.

(G) The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this division (G), the Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the Court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board of Adjustment pursuant to a subpoena issued in exercise of the power conferred by this division (G) may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing



committed on the examination. A penalty shall be imposed on any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely. (Ord. eff. 4-3-1984; Ord. 2010-10, passed 5-5-2010) Penalty, see § 153.999

### **§ 153.177 POWERS AND DUTIES.**

The Board of Adjustment shall have the following powers and duties, subject to the requirements of G.S. § 160A-388 (especially subsections b through d):

(A) *Administrative review.* To hear and decide any appeal from and review any order, requirement, decision or determination made by the Zoning Administrator. A fee shall be paid to the town for each appeal to cover advertising and administrative costs;

(B) *Variances.*

(1) To authorize upon appeal in specific cases such variance from the terms of this chapter when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the zoning regulations, so that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. Otherwise, the granting of variances should be strictly avoided, because they can tend to weaken the effectiveness of the regulations, imply favoritism and/or result in privileges being granted to certain individuals and not others. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter and the North Carolina General Statutes. Special note: no change in permitted uses may be authorized by variance. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until it shall make all of the following findings:

(a) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

(b) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(c) That the special conditions and circumstances do not result from the actions of the applicant; and

(d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land, structures or buildings in the same district.

(2) A fee shall be paid to the town for each application for a variance to cover advertising and administrative costs.

(C) *Conditional use.* To hear and decide requests for conditional uses as prescribed by §§ 153.050 through 153.052. A fee shall be paid to the town for each application for a conditional use to cover advertising and administrative costs.

(Ord. eff. 4-3-1984; Ord. 2010-10, passed 5-5-2010)

### **§ 153.178 APPEALS.**

(A) Appeals from the enforcement and interpretation of this chapter, and requests for conditional uses or variances shall be filed with the Zoning Administrator, who shall transmit all such records to the Board of Adjustment.

(B) The Board of Adjustment shall fix a reasonable time, not to exceed 60 days for a public hearing on appeals of the decision of the Zoning Administrator, and on requests for variances and conditional use permits. A notice of each public hearing shall be published in a newspaper of general circulation in the town, at least once a week for two consecutive weeks prior to the public hearing.

(C) An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment that, based on the records of the case, a stay would cause damage to life or property, or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the chapter, in which case proceedings shall not be stayed otherwise than by a restraining order from the Superior Court.

(D) It is the intention of this chapter that all questions arising in connection with the enforcement of this chapter shall be presented first to the Zoning Administrator. All appeals from his or her decisions shall be presented to the Board of Adjustment. The County Superior Court provides the next recourse from the Board of Adjustment decisions.  
(Ord. eff. 4-3-1984; Ord. 2010-10, passed 5-5-2010)

## **APPOINTED BOARDS (LAND-USE RELATED); PLANNING BOARD**

### **§ 153.190 CREATION AND MEMBERSHIP.**

(A) *Creation.* The Town Board of Commissioners hereby creates a Planning Board consisting of five members, each to be appointed for indefinite terms, subject to the requirements of the North Carolina General Statutes (G.S. §§ 160A-361, 160A-387 and the like) and this section. The Board of Commissioners may, in its discretion, appoint alternate members to serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board and serving on behalf of any regular member, shall have and exercise all the powers and duties of a regular member. All regular members and alternates shall take an oath of office (prescribed in Article VI, § 7 of the North Carolina Constitution) to be administered by the Mayor, Town Clerk or a notary public.

(B) *Appointments.*

(1) Appointments by the Town Board of Commissioners to the Planning Board shall be three members and one alternate member, who are citizens and residents of the town.

(2) (a) Appointments by the County Board of Commissioners to the Planning Board, representing the extraterritorial area, shall be two members and one alternate member, consistent with the requirements of G.S. § 160A-362.

(b) All representatives of the extraterritorial area shall have equal rights, privileges and duties as members appointed by the town, regardless of whether the matters at issue arise within the town or within the extraterritorial area.

(C) *Vacancies and attendance expectations.*

(1) Vacancies of members and alternates occurring for any reason shall be filled as soon as practical. The legislative body responsible for the original appointment shall be given the opportunity to fill such vacancies, consistent with G.S. § 160A-362.

(2) Faithful attendance at Board meetings is expected of all members (and alternates when needed). Failure to attend three consecutive meetings shall be deemed adequate cause for removal of a member by the Town Board of Commissioners.

(Ord. 2010-10, passed 5-5-2010)

### **§ 153.191 ORGANIZATION AND PROCEEDINGS OF THE PLANNING BOARD.**

(A) Within 60 days after appointment, the Planning Board shall meet and elect a Chairperson, and create and fill such offices as it may deem necessary. The term of the Chairperson and other officers shall be one year with eligibility for re-election.

(B) The Planning Board shall adopt rules for procedures and transactions of its business and shall keep a record of its members' attendance and of its discussions, findings and recommendations, which record shall be a public record.

(C) The Planning Board shall hold meetings as needed, except that when there are no agenda items for a meeting, the Board shall hold at least two meetings each year. All of its meetings shall be open to the public. A quorum shall consist of three members (and alternates filling in due to a vacancy, absence or disqualification of a member) for the purpose of taking any official action. All members of the Board shall have voting power on all matters of business. However, any member who is a party at interest to a matter under consideration by the Board shall declare such interest prior to a vote of the Board on the question, and shall abstain from voting on the question.

(Ord. 2010-10, passed 5-5-2010)

### **§ 153.192 DUTIES AND RESPONSIBILITIES.**

(A) Subsequent to the initial adoption of any land use ordinance (zoning, subdivision and the like), all proposed amendments to the ordinance text or zoning map shall be submitted to the Planning Board for review and comment. If no written report from the Planning Board is submitted to the Board of Commissioners within 30 days of referral of the amendment to the Planning Board, the governing board may proceed in its consideration of the amendment without a Planning Board report. The governing board is not bound by any recommendation, if any, of the Planning Board.

(B) In general, the Planning Board performs the following duties (as authorized and inferred in G.S. §§ 160A-361, 160A-387, 160A-373, 160A-513 and the like):

(1) Make or initiate studies of the area within its jurisdiction and surrounding areas to identify and analyze land use issues of importance to the town;

(2) Determine objectives to be sought in the development of the study area, and prepare and adopt plans for achieving these objectives;

(3) Prepare and recommend to the Board of Commissioners a comprehensive land use plan and other plans, programs and policies to achieve community goals and objectives, and advise the legislative body concerning the use and amendment of means for carrying out plans;

(4) Develop and recommend regulatory ordinances, administrative procedures and other means to implement plans in a coordinated and efficient manner;

(5) Inform and advise the general public regarding planning and zoning matters through meetings, hearings, advertisements, publications and other appropriate methods of communication;

(6) Coordinate planning activities with other jurisdictions' planning boards and commissions; and

(7) Exercise any functions in the administration and enforcement of various means for carrying out plans that the legislative body may direct, and perform any other duties assigned by the Board of Commissioners.

(C) In addition, members of the Planning Board, when duly authorized by the Board of Commissioners, may attend planning conferences and meetings of planning organizations, and be reimbursed for reasonable expenses associated therewith.

(Ord. 2010-10, passed 5-5-2010)

### **§ 153.193 ADVISORY COMMITTEES.**

(A) From time to time, the Board of Commissioners may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area.

(B) Members of such advisory committees shall sit as non-voting members of the Planning Board when such issues are being considered and lend his or her talents, energies and expertise to the Planning Board.

(C) However, all formal recommendations to the Board of Commissioners shall be made by the Planning Board itself.

(Ord. 2010-10, passed 5-5-2010)

## **AMENDMENTS**

### **§ 153.205 GENERALLY.**

This chapter, including the zoning map, may be amended, supplemented or changed from time-to-time according to the following procedures:

(Ord. eff. 4-3-1984)

### **§ 153.206 AMENDMENT ON MOTION OF TOWN BOARD.**

## Saratoga, NC Code of Ordinances

The Town Board of Commissioners may, from time-to-time, amend, supplement, change, modify or repeal the boundaries or regulations herein, or subsequently amended. Proposed changes or amendments may be initiated by the Town Board, Planning Board, Board of Adjustment or by one or more owners, optionees or lessees of property within the area proposed to be changed or affected.  
(Ord. eff. 4-3-1984)

### **§ 153.207 PETITION FOR AMENDMENT.**

Petitions from the public at large to amend this chapter shall be directed to the Town Planning Board for review and recommendation at least 20 days prior to the next regularly scheduled meeting of the Planning Board. The petition shall state the nature of the proposed amendment, and if applicable, a description of the property involved, names and addresses of the owner(s) of the property, and a statement why the proposed amendment is necessary to promote the public health, safety and general welfare. Each petition for amendment shall be accompanied by a fee to defray the cost of advertising and other administrative costs involved.  
(Ord. eff. 4-3-1984)

### **§ 153.208 PLANNING BOARD REVIEW AND RECOMMENDATION.**

The Planning Board shall have 45 days within which to submit its recommendations on petitions for amendment. Failure of the Board to submit its recommendations within this time period shall constitute a favorable recommendation. The Board's report shall be submitted in writing to the Clerk of the Town Board and to the petitioner(s).  
(Ord. eff. 4-3-1984)

### **§ 153.209 PUBLIC HEARING BY TOWN BOARD OF COMMISSIONERS.**

A public hearing shall be held by the Town Board of Commissioners before the adoption of any proposed amendment to this chapter. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. All hearings where there is a zoning classification action involving a parcel of land shall be conducted according to G.S. § 160A-384.  
(Ord. eff. 4-3-1984; Ord. passed 6-2-1993)

### **§ 153.210 VOTE OF THE TOWN BOARD OF COMMISSIONERS.**

A simple majority of the Town Board of Commissioners shall be required to amend this chapter when recommendation by the Planning Board is favorable. A three-fourths majority vote by the Town Board of Commissioners shall be required to amend this chapter when the Planning Board recommends against such amendments.

(Ord. eff. 4-3-1984)

**§ 153.211 PROTEST AGAINST AMENDMENT.**

In the case of a protest against such proposal duly signed by the owners of 20%, or more, either of the area of the lots included in such proposed change, or those immediately adjacent thereto, either in rear thereof or on either side thereof, extending 100 feet from the street frontage of such opposite lots, such amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners.

(Ord. eff. 4-3-1984)

**§ 153.212 DENIAL OF PETITION.**

When a petition for amendment is denied by the Town Board of Commissioners, a period of 12 months must elapse before another petition for the same change previously involved may be submitted.

(Ord. eff. 4-3-1984)

**§ 153.213 ZONING CLASSIFICATION ACTION.**

Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land, as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land, as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county abstracts. The person or persons mailing such notices shall certify to the Town Board that fact, and such certification shall be deemed conclusive in the absence of fraud. This provision shall apply only when tax maps are available for the area to be zoned.

(Ord. eff. 4-3-1984; Ord. passed 6-2-1993)

**INTERPRETATIONS AND DEFINITIONS**

**§ 153.225 WORD INTERPRETATIONS.**

For the purposes of this chapter, certain words shall be interpreted as follows.

(A) The word **PERSON** includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

(B) The word **MAY** is permissive.

(C) The word **SHALL** is mandatory.

(D) The words **USED** or **OCCUPIED** include the words **INTENDED, DESIGNED OR ARRANGED TO BE USED OR OCCUPIED**.

(E) The word **LOT** includes the words **PLOT, PARCEL, SITE** or **PREMISES**.

Saratoga, NC Code of Ordinances

- (F) The word **BUILDING** includes the word **STRUCTURE**.
- (G) The word **MAP** shall mean the official zoning map for the town.
- (H) The word **TOWN** shall mean the Town of Saratoga, a municipal corporation of the State of North Carolina.
- (I) The words **ORDINANCE** and **REGULATIONS** shall mean the official zoning ordinance for the Town of Saratoga, North Carolina.
- (J) The words **PLANNING BOARD** shall mean the Town of Saratoga Planning Board.
- (K) The words **TOWN BOARD** shall mean the Town Board of Commissioners of the Town of Saratoga, North Carolina.  
(Ord. eff. 4-3-1984)

**§ 153.226 TENSE AND NUMBER.**

- (A) The present tense includes the future tense, and the future tense includes the present tense.
- (B) The singular number includes the plural and the plural number includes the singular.  
(Ord. eff. 4-3-1984)

**§ 153.227 DEFINITIONS.**

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

**ACCESSORY BUILDING AND USE.** A subordinate building or use, the use of which is incidental to that of the principal building or use on the same lot.

**ADMINISTRATOR, ZONING.** The person, officer or official and his or her authorized representative, whom the Town Board have designated as his or her agent for the administration of these regulations. He or she may provide for the enforcement of this chapter by means of the withholding of building permits and occupancy permits, and by instituting injunctions mandamus, or other appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

**ALTER.** To make any structural changes in the supporting or loadbearing members of a building such as walls, columns, beams, girders or floor joints.

**APARTMENT.** A room or unit of one or more rooms, each of which have kitchen facilities, and are designated or intended to be used, as an independent unit or a rental basis.

**ASSEMBLY.** A joining together of completely finished parts to create a finished product.

**AUTOMOBILE WASH or AUTOMATIC CAR WASH.** A lot on which motor vehicles are washed or waxed, either by the patron or by others, using machinery specifically designed for the purpose.

**BOARD OF ADJUSTMENT.** A semi-judicial body composed of representatives from the town and extraterritorial jurisdiction to review/interpret the zoning ordinances and make recommendations.



**BOARDING HOUSE.** A building which contains four or more rooms, each of which have no kitchen facilities, and are designed or intended to be used for residential occupancy on a rental basis.

**BUILDABLE AREA.** The portion of a lot remaining after required yards have been provided.

**BUILDING.** Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of building.

**BUILDING, COMMERCIAL.** Any building used for business purposes.

**BUILDING, DETACHED.** A building having no party or common wall with another building except an accessory building.

**BUILDING, FARM.** Any structure used in the conduct of a bona fide farm operation, including, but not limited to, tobacco barns, pack houses, poultry houses, pig parlors and other storage facilities.

**BUILDING, HEIGHT OF.** The vertical distance from the average underwalk grade, or finished grade of the building line, whichever is the highest, to the highest point of the building.

**CERTIFICATE OF OCCUPANCY.** A statement, signed by the Zoning Administrator or his or her assistant, setting forth that the building, structure or use of land complies with this chapter of the town and with the standards of the County Health Department and the State Department of Human Resources.

**CHURCH, CLUB OR LODGE, PRIVATE.** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational or like activities, operated on a nonprofit basis for the benefit of its members.

**CONDITIONAL USE.** A use that would not be generally appropriate without restriction throughout the zoning district but, which if controlled as to number, area, location or relation to the neighborhood, would promote the health, safety morals, general welfare, order, comfort, convenience, appearance or prosperity. Such uses may be permitted in such zoning district as **CONDITIONAL USES** if specific provision for such is made in these zoning regulations.

**CURB CUT.** A lowered or cut-away curb for purposes of ingress or egress to property abutting a public street.

**DISTRICT, ZONING.** A section of the town within which the zoning regulations are uniform.

**DWELLING, MULTI-FAMILY.** A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

**DWELLING, SINGLE-FAMILY.** A detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

**DWELLING, TWO-FAMILY (DUPLEX).** A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

**DWELLING UNIT.** One room, or rooms connected together constituting a separate independent housekeeping establishment with complete living facilities for one family.

**ELECTRONIC GAMING OPERATION.** A business enterprise where persons utilize electronic machines, including computers and gaming terminals, to conduct games of chance, including internet sweepstakes, and where cash or other items of value are redeemed or otherwise distributed.

**ERECT.** To build, construct, rebuild, reconstruct, as the same are commonly defined.



**FABRICATION.** The processing and/or assemblage of various components into a complete or partially completed commodity. **FABRICATION** relates to stamping, cutting or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw materials such as metal, ore, lumber and rubber and the like are included.

**FAMILY.** One or more person living together and related by blood, marriage or legal adoption occupying the whole part of a dwelling as a separate housekeeping unit using the same kitchen facilities. A number of persons not exceeding five living together as a single housekeeping unit though not related by blood, adoption or marriage, shall be deemed to constitute a **FAMILY**, as shall a foster care home approved by the state.

**FAMILY CARE HOME.** A facility designed to care for a maximum of six disabled persons, plus support and supervisory personnel, as defined in G.S. § 168-21.

**FRONTAGE.** The distance between the two side lot lines as measured along the front setback line.

**HOME OCCUPATION.** An occupation for gain or support customarily conducted on the premises by a person or family residing thereon. The term **HOME OCCUPATION** shall not be deemed to include a tourist home.

**GARAGE, PRIVATE.** A building or space used as an accessory to a part of the main building permitted in any residential district that provides storage space for motor vehicles and in which no business, occupation or service for profit is in any way conducted.

**JUNK YARD.** Use of property for indoor and/or outdoor storage, keeping, abandonment, sale or resale of junk including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel, materials and equipment, or for the dismantling demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

**KENNEL.** A facility operated exclusively for profit and for the expressed purposes of providing shelter for animals.

**LOT.** For zoning purposes, as covered by this chapter, a **LOT** is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, converge and area, and to provide such yards and other open spaces as are herein required. Such **LOT** shall have frontage on an improved public street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, or complete lots of record and portions of lots of records, or of portions of lots of record; or
- (4) A parcel of land described by metes and bounds; and provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

**LOT, AREA.** The parcel of land enclosed within the boundaries formed by the property lines plus one-half of any alley abutting the lot between the boundaries of the lot, if extended.

**LOT, CORNER.** Any parcel of land enclosed within the boundaries formed by the property lines plus one-half of any alley and the lot between the boundaries of the lot, if extended.

**LOT DEPTH.** The depth of a lot, for the purpose of this chapter is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite lot line.

**LOT LINE.** Any boundary of a parcel of land.

**LOT LINE, FRONT.** Any boundary line of a lot running along a street right-of-way line.

**LOT LINE, REAR.** The lot line opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a **REAR LOT LINE**, then there shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be line perpendicular to a straight line connecting said apex and the midpoint on the front lot line.

**LOT OF RECORD.** A lot which has been recorded in office of the Register of Deeds of the county or a lot described by metes and bounds the description of which has been recorded in the aforementioned office.

**LOT WIDTH.** The distance between side lot lines measured at the building line.

**MOBILE HOME.** A detached residential dwelling unit over 32 feet in length and over eight feet wide designed for transportation after fabrication on its own wheels or on flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor and incidental unpacking and assembly operations including, but not limited to, location on jacks or other temporary or permanent foundations, and connection to utilities. Travel trailers and campers shall not be considered **MOBILE HOMES**.

**MOBILE HOME PARK.** Any plot of ground upon which ten or more mobile home spaces are located, regardless of whether or not a charge is made for such accommodations.

**MODULAR HOME.** A dwelling unit constructed in accordance with the standards set forth in the State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a **MODULAR HOME** may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the **MODULAR HOME** meets the State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

**NONCONFORMING USE.** A legal use of a building and/or land that antedates the adoption of these regulations and does not conform to the regulations for the district in which it is located.

**NURSING HOME.** A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital or mental health center.

**PARKING SPACE.** The storage space for one automobile of not less than ten feet by 20 feet, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

**PLANNED UNIT DEVELOPMENT.** The planned residential development of mixed structures such as apartments, townhouses, rowhouses and cluster subdivisions, usually incorporating privately-owned, open common areas.

**PRINCIPAL BUILDING OR USE.** The principal purpose for which a lot or the main building thereon is designed, arranged or intended, and for which it is or may be used, occupied or maintained.

**PROCESSING.** Any operation changing the nature of material or material's chemical composition or physical properties. Does not include operations described as fabrication.

**PUBLIC SEWER SYSTEM.** Any sewage disposal system whether operated publicly or privately other than a pit privy or a septic tank located on the lot and approved by the County Health Department.

**PUBLIC WATER SYSTEM.** A system operated publicly or privately, whereby the watercourse is not located on the lot of the consumers and the number of connections must be at least ten and approved by the County Health Department.

**RETAIL.** The sale of a commodity to the ultimate consumer and not customarily subject to sale again.

**SALVAGE OPERATION.** The reclamation, dismantling or storage of perused commodities, junk and similar material for the purposes of resale, processing, distribution or deposition.

**SERVICE STATION.** A building or lot where gasoline, oil, grease and automotive accessories are supplied and dispensed to a motor vehicle trade.

**SETBACK LINES.** The line on the front, rear and sides of a lot which delineates the area within which a structure may be built and maintained, according to the district regulations.

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

**SIGN.** Any device designed to inform, or attract the attention of persons not on the premises on which the sign is located.

**SIGN, AREA OF.** That sign area shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign including lattice work, wall work, frame or supports incidental to its decoration. In computing the area, only one side of a double face sign structure shall be considered.

**SIGN, BUSINESS IDENTIFICATION (PRINCIPAL USE).** Any sign which advertises an establishment, service, commodity or activity conducted upon the premises where such sign is located.

**SIGN, PORTABLE.** Any sign not exceeding 80 square feet in billboard area and constructed as a part of or attached to a trailer.

**SITE SPECIFIC DEVELOPMENT PLAN.** A plan of land development submitted to the town for purposes of obtaining a conditional use permit or zoning permit. Notwithstanding the foregoing, neither a variance nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a **SITE SPECIFIC DEVELOPMENT PLAN**.

**STORAGE.** The deposition of commodities or items for the purposes of future use or safekeeping.

**STREET.** A dedicated and accepted public right-of-way which affords the principal means of access to abutting properties for vehicular traffic.

**STRIP, BUFFER.** An unused strip of land 25 feet or more in width, planted with deciduous and/or evergreen tree, spaced not more than five feet apart, and six feet or more in height when planted, and maintained in a healthy growing condition by the owner. No building or part of a building, no driveway or parking area shall occupy any part of a **BUFFER STRIP**.

**STRUCTURE.** Anything constructed or erected with a fixed location on, or in the ground, or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include building, mobile homes, walls, fences, billboards, poster panels, swimming pools and fall-out shelters.

**TOURIST HOME.** A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

**TRAVEL TRAILER.**

Saratoga, NC Code of Ordinances

- (1) Any structure which:
  - (a) Consists of a single unit completely assembled at the factory;
  - (b) Is designed so that the total structure can be transported on its own chassis; and
  - (c) Is not over 32 feet in length and eight feet in width.

(2) Such structures shall be considered **TRAVEL TRAILERS** regardless of other titles that may also be applicable such as camper, mini mobile home and the like.

**USE.** The purpose for which land or structures thereon are designed, arranged or intended to be occupied or uses; or for which it is occupied, maintained, rented or leased.

**USE, CONDITIONAL.** A use permitted in a zone only after specific findings by the Board of Adjustment.

**USE BY RIGHT.** A use which is listed as an unconditionally permitted activity in this chapter.

**UTILITIES, LOW IMPACT.** Equipment, lines and minor facilities/structures/appurtenances associated with the provision of electricity, water, sewage or stormwater collection, telecommunications or similar services, which are customarily located within an easement or small lot and which typically have minimal impact on adjacent properties. Included in this definition are utility equipment boxes for telephone, cable and the like, and lift/pump stations; but not water/sewage treatment plants, landfills, electric substations, telecommunications towers and similar larger scale facilities.

**VARIANCE.** A relaxation of the terms of the zoning regulations where such variance will not be contrary to the public interest and where, owing to condition peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

**WAREHOUSE.** Sale of a commodity for resale to the public for direct consumption.

**WHOLESALE.** Sale of a commodity for resale to the public for direct consumption.

**YARD.** A required open space unoccupied and unobstructed by any principal structure or portion of a structure, except as provided herein.

**YARD, FRONT.** A yard extending across the front of a lot measured from side lot line to side lot line and lying between the abutting street right-of-way and the principal building on the lot.

**YARD, REAR.** A yard extending across the rear of the lot measured from side lot line to side lot line and lying between rear property line and the principal building on the lot.

**YARD, SIDE.** A yard extending along either side of a lot measured from front yard line to the rear yard line and lying between the side lot line and the principal building on the lot.

**ZONING PERMIT.** A permit issued by the Zoning Administrator when a proposal to use or occupy a lot or structure, or to erect, install or alter a structure, building, sign or lot, fully meets the requirements of this chapter. This permit must be obtained before any work is initiated on the proposed use.

**ZONING VESTED RIGHT.** A right pursuant to G.S. § 160A-385.1, to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

(Ord. eff. 4-3-1984; Ord. passed 6-2-1993; Ord. 2008-3, passed 5-7-2008; Ord. 2010-07, passed 3-31-2010; Ord. 2010-08, passed 3-31-2010)

## LEGAL STATUS

### § 153.240 INTERPRETATION, PURPOSE AND CONFLICT.

In the interpretation and application, the provision of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals and general welfare, wherever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the highest standards shall govern.

(Ord. eff. 4-3-1984)

### § 153.241 VALIDITY.

(A) Should any section or provision of this chapter be declared invalid by the courts, such decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so declared to be invalid.

(B) A cause of action as to the validity of this zoning chapter, or any amendment thereto, shall accrue upon the adoption of the ordinance, or amendment thereto, and shall be brought within nine months thereafter.

(Ord. passed - -; Ord. eff. 4-3-1984; Ord. passed 6-2-1993)

### § 153.242 EFFECTIVE DATE.

This chapter adopted by the Town Board of Commissioners shall take effect and be in force from and after April 3, 1984.

(Ord. eff. 4-3-1984)

### § 153.999 PENALTY.

(A) Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not to exceed \$100 or by imprisonment not to exceed 30 days. Each day such violation continues shall be deemed a separate offense.

(B) Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.

(Ord. eff. 4-3-1984; Ord. 2010-10, passed 5-5-2010)