

## Chapter 26 ZONING<sup>1</sup>

### *ARTICLE I. IN GENERAL*

#### **Sec. 26-1. Authority and enactment.**

The authority to adopt zoning regulations is granted by G.S. 160A-360 et seq.  
(Ord. of 4-10-2006, § 101)

#### **Sec. 26-2. Title.**

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Spring Hope, North Carolina," and may be referred to as the zoning ordinance.  
(Ord. of 4-10-2006, § 102)

#### **Sec. 26-3. Purpose.**

- (a) For the purpose of promoting the health, safety, morals and general welfare, this chapter is adopted by the board of commissioners to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.
- (b) The zoning regulations in this chapter are in accordance with a comprehensive plan and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

(Ord. of 4-10-2006, § 103)

#### **Sec. 26-4. Definitions.**

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

*Abutting* means that the property either directly touches another piece of property or is separated only by a street or utility right-of-way.

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<sup>1</sup>State law reference(s)—Planning and regulation of development, G.S. 160A-360 et seq.

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*Accessory building, structure, or use* means a building, structure, or use on the same lot with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure.

*Adult establishment* means any principal or accessory structure or use of land, which meets the definition of adult establishment as set forth in G.S. 14-202.10, but excluding "massage and bodywork therapy."

*Alley* means 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.

*Apartment complex* means two or more buildings, each consisting of two dwelling units or more, under common ownership and located on the same or directly abutting pieces of property.

*Board of adjustment* refers to the Board of Adjustment of the Town of Spring Hope, North Carolina.

*Boardinghouse* means an owner-occupied dwelling, or part thereof, in which lodging is provided to more than two, but not more than six paying guests on a daily or longer basis and where the rooms rented do not constitute separate dwelling units.

*Building* means any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons or animals.

*Building, height of,* means the vertical distance measured from the grade:

- (1) To the highest point of the coping of a flat roof;
- (2) To the deck line of a mansard roof; or
- (3) To the height level between the eaves and ridge of a gable, hip, or gambrel roof.

*Campground, commercial,* means an area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents and recreational vehicles, and which is primarily used for recreational purposes and retains an open air or natural character.

*Campground, youth or organized group,* means an establishment in an open air or natural setting either publicly or privately owned, complete with buildings, structures, and sanitary facilities and services designed for recreation and/or education for youth groups; or organized secular or religious organizations for their members and not open to the general public.

*Condominium* means a project meeting the requirements of G.S. ch. 47A. The type of structure and use, rather than the condominium form of ownership, shall be the determining factor in deciding whether a use is permitted in a district.

*Day care center* means any facility, other than a private dwelling, operated for the purpose of providing care, protection and guidance to children or adults during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses, but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

*Day care, home,* means an operation in which day care is provided for up to five preschool-age children, or up to eight other children and/or adults.

*Dwelling, multifamily* means a building containing more than two individual dwellings with separate cooking and toilet facilities for each dwelling. The term "multifamily dwelling" includes apartments and condominiums.

*Dwelling, single-family detached,* means a detached building designed to be occupied by one family, but excluding manufactured homes.

*Dwelling, two-family (duplex)* means a building containing two dwelling units and designed to be occupied by two families, but excluding manufactured homes and townhouses.

*Dwelling unit* means a building or portion thereof designed, arranged and/or used for the living quarters for one or more persons living as a single family, with cooking facilities, excluding units in rooming, boarding,

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and tourist houses, family or group care homes, or hotels or motels or other buildings designed for transient residence.

*Electronic gaming operations* means any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. The term, "electronic gaming operations" includes, but is not limited to internet cafes, internet sweepstakes, beach sweepstake or cybercafes. This does not include any lottery approved by the state.

*Entertainment, commercial indoor*, means an establishment offering entertainment or games of skill to the general public for a fee or charge where the activity takes place indoors. Typical uses include, but are not limited to, game rooms/arcades, billiard parlors, roller skating rinks, and theaters.

*Entertainment, commercial outdoor*, means an establishment offering entertainment or games of skill to the general public for a fee or charge wherein any portion off the activity takes place in the open, excluding golf courses and public parks. Typical uses include, but are not limited to, batting cages, golf driving ranges, miniature golf courses, and go-cart tracks.

*Equipment repair, heavy*, means repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include, but are not limited to, automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops and other similar uses where major repair activities are conducted.

*Family* means:

- (1) An individual;
- (2) Two or more persons related by blood, marriage, or adoption living together in a dwelling unit, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two unrelated persons; or
- (3) A group of not more than four persons who need not be related by blood, marriage, or adoption living together in a dwelling unit.

A family may include five or fewer foster children placed in a family foster home licensed by the state but shall not include fraternities, sororities, boardinghouses or roominghouses, tourist homes, family care homes, dormitories, or group homes.

*Family care home* means an adult care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons as regulated by G.S. 168-1.

*Floor area, gross*, means the number of square feet of total floor area bounded by the exterior faces of a structure, plus the number of square feet of unenclosed space devoted to the conduct of the use, excluding basements and unenclosed porches, balconies and terraces, unless used in conjunction with the use, such as for outdoor eating, merchandising storage, assembly, or similar uses, and excluding off-street parking and loading areas.

*Food truck* means a self-contained vehicle that is designed to prepare and serve food in various locations.

*General retail greater than 5,000 square feet* means establishments of greater than 5,000 square feet of floor area engaged in the sale or rental of goods for consumer or household use.

*General retail less than 5,000 square feet* means establishments of 5,000 square feet or less of gross floor area engaged in the sale or rental of goods and services for consumer or household use.

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*Greenhouse, commercial*, means a retail business whose principal activity is the selling of plants grown on the site and having outside storage, growing or display.

*Group home* means a facility with support and supervisory personnel that provides room and board, personal care, or habilitation services in a family environment for not more than 30 people.

*Home occupation* means the incidental use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services in conformance with section 26-77.

*Kennel* means an establishment for the keeping or breeding of dogs for profit.

*Lot* means a single lot of record, or more than one contiguous lot of record in the same ownership, which lot or lots of record are not divided by any street or public alley, and excluding any part of a lot or lots of record which, when severed from contiguous land in the same ownership, creates a nonconformity or a lot or parcel which does not meet the dimensional requirements of this chapter.

*Lot area* means the computed area contained within the lot lines exclusive of any portion lying within a street or road right-of-way.

*Lot, corner*, means a lot which occupies the interior angle at the intersection of two or more right-of-way lines. A lot abutting on the right-of-way of 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.

*Lot coverage, maximum in percent*, means the maximum percent of the lot which may be covered with structures. All yard requirements must be met in addition to lot coverage requirements.

*Lot depth* means the distance between the midpoints of straight lines connecting the foremost point of the side lot lines in front and the rearmost points of side lot lines in the rear.

*Lot of record* means a lot which is part of a subdivision recorded in the office of the register of deeds of the county, or a lot described by metes and bounds, the description of which has been so recorded.

*Lot width* means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided however, that width between side lot lines at their foremost points (where they intersect the right-of-way line) shall not be less than 80 percent of the required lot width, except in the case of the turning circle of cul-de-sac where the 80 percent requirement shall not apply.

*Manufactured home.*

- (1) The term "manufactured home" means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.
- (2) The term "manufactured home" includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.
- (3) For manufactured homes built before June 15, 1976, the term "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.
- (4) The term "manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that

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connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.

*Manufactured home, class A*, means a dwelling unit that:

- (1) Is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended;
- (2) Is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site;
- (3) Meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development; and
- (4) Conforms to the development standards of section 26-247.

*Manufactured home, class B*, means a manufactured home ten years old or less at the time of permitting that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify as a class A manufactured home, but meets the development standards section 24-248.

*Manufactured home, modular*, means a dwelling unit that:

- (1) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the site on its own chassis;
- (2) Is constructed in accordance with the North Carolina Uniform Residential Building Code.

*Manufactured home park* means a residential use in which more than 3 class A or B manufactured homes are located on a single lot or tract. See section 26-249 for specific provisions related to manufactured home parks.

*Massage therapy business* means a use of land that offers "massage and bodywork therapy," as a principal or accessory use, which is legally defined as, "systems of activity applied to the soft tissues of the human body for therapeutic, educational or relaxation purposes" and who employ therapists licensed by the North Carolina Board of Massage and Body Work Therapy.

*Migrant labor camp* means a building, structure, barracks, or dormitory, and the land appertaining thereto, that is rented or reserved for occupancy by five or more migrant farm workers, except any housing owned or operated by a public housing authority, unless such housing is specifically provided for persons whose principal income is derived from agriculture.

*Modular homes* must be constructed to meet the qualifications and standards in G.S. 143-139.1.

*Net acreage, acres, land area, or square footage of land area* means land area with streets, rights-of-way, and driveways which serve as access to more than two units or uses, and major transmission line easements not included in its measurement.

*Personal services* means establishments not of an adult nature, defined elsewhere in this section, or listed as a separate use, which provide non-medically related services to individuals. Such uses include, but are not limited to: barbershops, beauty salons and spas, clothing rental, coin-operated laundromats, marriage counseling, massage therapy business (see separate definition), personal laundry and dry cleaning establishments, photographic studios, tattoo parlors and travel agencies. These uses may also include accessory retail sales of products related to the services provided.

*Planned residential development* means as defined in section 26-72.

*Planning board* refers to the Planning Board of the Town of Spring Hope, North Carolina.

*Principal building, use, or structure* means the main use of a lot or the building or structure in or on which the main use of the lot takes place.

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*Recreation facility, indoor*, means establishments engaged in providing indoor recreation services. Such facilities may include public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCAs, YWCAs or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. The term "indoor recreation facilities" may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

*Recreation facility, outdoor*, means establishments which are engaged in providing outdoor recreation services such as public or private golf courses, country clubs, swimming pools, tennis courts, ball fields and ball courts. Such uses are not enclosed in buildings, and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. The term "outdoor recreation facility" may include any accessory uses, such as snack bars, pro shops, and clubhouses which are designed and intended primarily for the use of patrons of the principal recreational use.

*Repair and maintenance shops (other)* means establishments primarily engaged in the provision of repair services to individuals and businesses, but excluding automotive and heavy equipment repair use types. Typical uses include, but are not limited to, appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

*Restaurant* means an establishment whose primary purpose is serving meals to patrons.

*Restaurant, drive-in or take-out*, means any restaurant, which makes provision for curbside service, outdoor service or a drive-in window, or any restaurant more than ten percent of whose average daily customers take their food or beverages out of the restaurant.

*Restaurant, indoor*, means any restaurant except a drive-in or take-out restaurant.

*Right-of-way, street*, means a strip of land, owned publicly or privately which affords the principal means of access to abutting property.

*Roof line* means The top edge of the roof or the top edge of the parapet, whichever forms the top line of the building silhouette, but not including penthouses or equipment structures.

*Shopping center* means any building or group of buildings on the same site containing more than two retail or wholesale trade establishments.

*Sign* means any outdoor letter, symbol, number, trademark, or other form of publicity or combination of these as well as the surface on which they are painted or to which they are attached, and any background material, coloring, shapes or other trim shall be considered a sign, unless entirely enclosed by a fence or wall such that the above items and any structure or lighting attached to or accessory to them cannot be seen off the premises on which they are located. Works of fine art which in no way identify or advertise a product or business shall be excluded from this definition. Types of signs include the following:

- (1) *Ground sign* means a sign erected on a freestanding frame, mast and/or pole and not attached to any building, fence or wall.
- (2) *Identification sign* means a sign which contains any or all of the following: the name of the occupant, owner, or establishment, the type of establishment, the name of the franchise, the hours of operation and house number when located on the site of the establishment.
- (3) *Off-site advertising sign (billboard)* means a sign which contains information about an establishment, business, commodity, activity or service not conducted, sold, or offered upon the premises where such sign is located.
- (4) *On-site advertising sign* means a sign which contains information about an establishment or the products or services that it offers, other than that contained in an identification sign, when located on the same site as the establishment to which it refers.

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- (5) *Projecting sign* means a sign which extends beyond and is attached to a building wall and may extend over a public right-of-way.
  - (6) *Roof sign* means a sign attached to and extending upward from a roof of a structure.
  - (7) *Snipe sign* means a temporary off-premises (non-real estate) commercial sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.
  - (8) *Wall sign* means a sign which is attached flat to the wall or facade of a building, or to a fence or wall.

*Solar generation facility, utility scale* means an installation, sometimes called a solar farm, principally designed and used to capture and convert solar energy into electric or thermal energy primarily for use off-site, such as transmission to the power grid.

*Structure* means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, the term "structure" includes buildings, manufactured homes, fences, signs and swimming pools.

*Temporary event* means a use permitted for a short duration of time on an irregular basis. The term "temporary events" includes such uses as carnivals or fairs, religious tent revivals, farm stands, sale of seasonal decorations, etc.

*Temporary use* means a use established for a fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations. Examples include, but are not limited to temporary manufactured homes, construction office trailers, etc.

*Townhouse* means a single-family dwelling unit constructed in a series or group of attached units with property lines separating such units.

*Use*, as applied to any land or building, shall be construed to include the terms "intended", "arranged" or "designed to be used."

*Variance* means a relaxation of the terms of this chapter under specific conditions set forth in section 26-283(2).

*Wood biomass plant* means a plant or facility producing electrical power from woody biomass, where wood is combusted in boiler systems fitted with air emissions controls to drive steam turbines that produce electricity. Cogeneration may be applied in the plant, in which wood is used to generate both electricity and heat for other processes such as drying and heating. Wood biomass does not include plants that use a combination of wood and other fuels such as coal, oil or natural gas (also known as co-firing).

*Yard* means An open space on the same lot with a principal structure or use unobstructed and unoccupied by any structure or portion thereof or parking or loading area, except as provided in this chapter.

*Yard, front*, means a yard extending the full width of the lot and situated between the right-of-way line and the front line of the principal structure or use projected to the side lines of the lot. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

*Yard, rear*, means a yard extending the full width of the lot and situated between the rear line of the lot and the principal structure or use projected to the side lines of the lot.

*Yard, side*, means a yard extending along either side of a lot measured from front yard line to rear yard line and lying between the side lot line and the principal structure or use on the lot.

*Zoning administrator* means the official charged with the enforcement of this chapter, who shall be the town manager or his appointee.

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*Zoning map, map, or Spring Hope Zoning Map* means the Official Zoning Map of the Town of Spring Hope, North Carolina.

(Ord. of 4-10-2006, §§ 201—203; Res. of 3-8-2010, amd. no. 1; Res. of 12-3-2012; Ord. of 9-9-2013; Ord. of 8-3-2015)

### **Sec. 26-5. Jurisdiction.**

The area to which this chapter applies is shown on the official zoning map.

(Ord. of 4-10-2006, § 104)

### **Sec. 26-6. Interpretation.**

In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of lawfully adopted rules, regulations, chapters, deed restrictions, or covenants, are at variance with the requirements of this chapter, the most restrictive, or that imposing the highest standards, shall govern.

(Ord. of 4-10-2006, § 105)

### **Sec. 26-7. Severability.**

This chapter and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be affected thereby. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid as applied to a particular property, buildings, or structures shall not be affected hereby. Whenever any condition or limitation is included in an order authorizing a special use permit, conditional use permit, variance, zoning compliance permit, certificate of occupancy or site plan approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirement of some provision hereof, and to protect the public health, safety and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

(Ord. of 4-10-2006, § 106)

### **Sec. 26-8. Application of regulations.**

The regulations set forth in this chapter shall affect all land, every structure, and every use of land and/or structure and shall apply as follows:

- (1) No structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, or structurally altered except in compliance with the regulations of this chapter for the district in which it is located.
- (2) No structure shall hereafter be erected or altered so as to exceed the height limit or density regulations of this chapter for the district in which it is located.
- (3) No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements and other requirements of this chapter are not maintained. This prohibition shall not



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be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

- (4) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.
- (5) In any district, no more than one principal building or use may be erected on a single lot of record, except as specifically permitted in other sections of this chapter.

(Ord. of 4-10-2006, § 107)

### **Sec. 26-9. Interpretation of regulations.**

The regulations in this chapter shall be enforced and interpreted according to the following rules:

- (1) Uses not designated in the district regulations as permitted, conditional, or special uses shall be prohibited. Conditional and special uses are permitted according to the additional regulations imposed. These conditional and special uses can be approved only by the board of adjustment or board of commissioners as specified in this chapter. Additional uses may be added to the chapter by amendment.
- (2) Regulations set forth by this chapter shall be minimum regulations. If the requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted uses, regulations, or chapters, the more restrictive or higher standard shall govern.
- (3) Unless restrictions established by covenants which the land are prohibited by or contrary to the provisions of this chapter, nothing herein contained shall be construed to render such covenants inoperative.

(Ord. of 4-10-2006, § 108)

### **Sec. 26-10. Vested development rights.**

Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:

- (1) For which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived making the change so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit has not been revoked pursuant to G.S. 160A-422; or
- (2) For which a zoning permit has been issued prior to the effective date of the ordinance from which this chapter is derived making the change so long as the permit remains valid and unexpired pursuant to this article; or
- (3) For which a vested right has been established and remains valid and unexpired pursuant to this section.

(Ord. of 4-10-2006, § 109)

### **Sec. 26-11. Additional procedures for establishing a vested right.**

A vested right to commence a planned development or use of property according to a site specific development plan shall be established upon approval of a special use permit, or a conditional use permit by the

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appropriate town board. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.

(Ord. of 4-10-2006, § 109.2)

### **Sec. 26-12. Term of a vested right.**

A right, which has been vested by the town, shall remain vested for a period of three years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the board of commissioners when it approves the modification or amendment. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:

- (1) When a vested development plan has been at least 50 percent completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and
- (2) Prior to the vested right terminating at the end of the three-year period, the owner of the property may petition the appropriate board for a one-time two-year extension of the vested right not to exceed a total vested period of five years. In its deliberations regarding the extension request, the board may consider, among other things:
  - a. The percentage of the project completed;
  - b. A demonstration by the petitioner of good faith efforts made towards project completion;
  - c. The reasons for the delay of project build-outs; and
  - d. The compatibility of the planned development with current town plans and the surrounding landscape.

The board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the permit to meet the current code.

(Ord. of 4-10-2006, § 109.3)

### **Sec. 26-13. Declaration of a vested right upon 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. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, 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 which may have existed shall be terminated.

(Ord. of 4-10-2006, § 109.4)

State law reference(s)—Vested rights, G.S. 160A-385.1.

### **Sec. 26-14. Repeals and enactment.**

- (a) *Repeal of conflicting ordinances.* All ordinances or parts of ordinances of the town which are in conflict or inconsistent with this chapter are repealed and superseded to the extent necessary to give this chapter full force and effect.

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- (b) *Statute of limitations.* In accordance with G.S. 160A-364.1, a cause of action as to the validity of this chapter, or amendment thereto, shall accrue upon the adoption date of the ordinance from which this chapter is derived or amendment thereto, and shall be brought within two months as provided in G.S. 1-54.1.

(Ord. of 4-10-2006, §§ 110.1, 110.2)

State law reference(s)—Statute of limitations, G.S. 160A-364.1.

**Secs. 26-15—26-65. Reserved.**

## ***ARTICLE II. DISTRICT PROVISIONS***

### **Sec. 26-66. Establishment and purpose of districts.**

For the purpose of this chapter the zoning jurisdiction of the town is divided into the following districts:

(1) *General use districts.*

- a. RA, *Residential-Agricultural District.* The purpose of this district is to allow agricultural activities and residential development at low rural densities in areas where public service are not available.
- b. R-30, *Low Density Residential District.* The purpose of this district is to provide for the development of residential neighborhoods at low densities where public services may not be available.
- c. R-15, *Medium Density Residential District.* The purpose of this district is to provide for the development of residential neighborhoods at medium densities where public services are available.
- d. R-8, *Higher Density Residential District.* The purpose of this district is to provide for older in-town neighborhoods which have developed at this density and to provide for other medium- and high-density residential areas.
- e. R-MF, *Multifamily Residential District.* The purpose of this district is to provide new areas for multifamily residential development.
- f. R-MH, *Manufactured Home Residential District.* The purpose of this district is to provide for the development of manufactured homes on individual lots and of manufactured home parks in appropriate locations.
- g. CB, *Central Business District.* The purpose of this district is to allow a wide range of commercial uses compatible with the town's downtown area.
- h. GB, *General Business District.* The purpose of this district is to provide for a variety of business uses which are appropriate in certain selected locations in the planning area where they will not cause compatibility problems with other uses.
- i. IC, *Interchange Commercial District.* The purpose of this district is to provide areas to serve the needs of the traveling public.
- j. LI, *Light Industrial District.* The purpose of this district is to provide for industrial uses of a clean nature which will be compatible with adjacent districts.
- k. HI, *Heavy Industrial District.* The purpose of this district is to allow a wide range of industrial uses in areas where they will not be incompatible with adjacent uses or neighborhoods.

(2) *Special use districts (SUD)*. The purpose of these districts is to promote greater land use compatibility by allowing landowners to voluntarily place their property into classifications in which a special use permit is required as a prerequisite to any use or development. More specifically, the purpose of these districts is identical to that of the corresponding general use district as indicated below, except that a special use permit is required as a prerequisite to any use or development, as provided for in this article.

Special Use District	Corresponding General Use District
RA-SUD	RA
R-30-SUD	R-30
R-15-SUD	R-15
R-8-SUD	R-8
R-MF-SUD	R-MF
R-MH-SUD	R-MH
R&PUD-SUD	None
CB-SUD	CB
GB-SUD	GB
IC-SUD	IC
LI-SUD	LI
HI-SUD	HI

(3) *Planned development districts*. The purpose of the R&PUD, Residential and Planned Unit Development District is to provide locations for a variety of types of development projects on land under unified control, planned as a whole, and developed either in a single phase, or in a definitely programmed series of units or stages of development, with appropriate design and site planning controls.

(Ord. of 4-10-2006, § 301; Ord. of 10-21-2021)

**Sec. 26-67. Official zoning map established.**

The boundaries of the use districts established by this article are shown on the official zoning map which shall be maintained by the zoning administrator and kept at the town clerk's office in the municipal building, Spring Hope, North Carolina. The official zoning map and all amendments, certifications, citations, and other matters entered on the official zoning map are hereby made a part of this article and have the same legal effect as if fully set out herein. The official zoning map shall be identified by the signature of the mayor attested to by the town clerk.

(Ord. of 4-10-2006, § 302.1)

**Sec. 26-68. Amendments to the official zoning map.**

Amendments to the official zoning map shall be adopted by ordinance as provided in section 26-330. Promptly after the adoption of an amendment, the zoning administrator shall alter or cause to be altered the official zoning map to indicate the amendment. The town clerk shall enter in writing upon the face of the map a certification indicating the alteration and citing the date of adoption and the effective date of the amendment.

(Ord. of 4-10-2006, § 302.2)

**Sec. 26-69. Interpretation of use district boundaries.**

- (a) Method of interpretation. If uncertainty exists as to the boundaries of the use districts shown on the official zoning map, which is not resolved by the ordinance or ordinances establishing and amending such boundaries, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
  - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
  - (3) Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following such jurisdictional boundaries;
  - (4) Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main track or tracks;
  - (5) Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such centerlines;
  - (6) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and if the shoreline is changed either naturally or as permitted by law, such a boundary shall be construed as moving with the actual shoreline;
  - (7) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices;
  - (8) Boundaries indicated as parallel to or extensions of natural or manmade features indicated in subsections (a)(1) through (7) of this section shall be so construed; and
  - (9) Distance not specifically indicated shall be determined by the scale of the official zoning map.
- (b) Where uncertainties continue to exist after application of the rules in subsection (a) of this section, appeal may be taken to the board of adjustment as provided in article VIII of this chapter.

(Ord. of 4-10-2006, § 303)

**Sec. 26-70. Permitted uses.**

Uses permitted in all districts shall be in accordance with table 304.1:

- (1) P is a use permitted by right;
- (2) D is a permitted use, but subject to additional development standards as specified in article VII of this chapter;
- (3) C is a conditional use, allowed only with approval of the board of adjustment and subject to the standards of section 26-325; and
- (4) S is a special use, allowed only with approval of the board of commissioners, and subject to the standards of section 26-325.

TABLE 304.1. PERMITTED USES

Uses	Districts										
	RA	R30	R15	R8	RMF	RMH	CB	GB	IC	LI	HI
<i>Agricultural</i>											

Farming	P								P	P	P
Sale of farm product on property where produced	P								P	P	P
Greenhouses, commercial	D									P	P
Migrant labor camp	S										
Plant nurseries and related agricultural uses	P										
<i>Residential</i>											
Bed and breakfast	D	D	D	D	D		D	D	D		
Boardinghouses	C	C	C	C	C		C	C	C		
Dwellings, single-Family	P	P	P	P	P	P					
Dwellings, two-family					C	C					
Dwellings, multifamily					C						
Dwellings, townhouses					C						
Manufactured home, class A	D					D					
Manufactured homes, class B						D					
Manufactured home, modular	D	D	D	D	D	P					
Manufactured home parks						S					
Planned residential development	S	S	S	S	S	S					
<i>Education, Government and Institutional</i>											
Armories							P	P			
Cemeteries	C	C	C	C	C	C					
Churches, temples, synagogues	C	C	C		C	C	C	C	C	C	C
Civic and fraternal organizations	C	C	C	C	C	C	C	C	C		
Colleges and universities	C	C	C	C	C	C		C	C	C	C
Community centers	C	C	C	C	C	C	C	C	C		
Day care center	C	C	C	C	C	C	C	C	C	C	C
Day care, home	C	C	C	C	C	C					
Family care homes	D	D	D	D	D	D					
Group homes	S				S						
Government offices							C	C	C	C	C
Hospitals								P	P	P	
Libraries	C	C	C	C	C	C	P	P	P		
Museums	C	C	C	C	C	C	P	P			
Nursing homes					C			P	P		
Public safety stations (police, fire and rescue squad)	C	C	C	C	C	C	C	C	C	C	C
Schools, elementary and secondary	C	C	C	C	C	C	C	C	C	C	C
Schools, vocational							C	C	C	C	C
<i>Recreational</i>											
Amusement parks								S	S		
Campground (commercial)	C										
Campground (youth or organized groups)	C										
Nightclub							S	S	S		
Electronic gaming operations										D	D
Entertainment, indoor							S	S	S		
Entertainment, outdoor	C							C			

Parks, municipal	P	P	P	P	P	P	P						
Playgrounds, municipal	P	P	P	P	P	P	P						
Recreation facility, indoor	C	C	C	C	C			C	C	C			
Recreation facility, outdoor	C	C	C		C	C							
Skating rink								S	S	S			
<i>Business, Professional and Personal Service</i>													
Automotive rental or leasing									P	P	P	P	
Automotive repair services									P	P	P	P	
Automotive towing and storage									P		P	P	
Banks, and other financial institutions, including drive-in								P	P	P			
Car washes									P	P			
Equipment repair—heavy											P	P	
Funeral homes								C	C	C			
Hotel or motel									P	P			
Kennels									P				
Laboratories for research and testing											C	C	
Offices—business, professional and public								P	P	P	P	P	
Personal services								P	P	P			
Pest or termite control									P				
Pet grooming								D	P				
Photo-copying or duplicating								P	P	P			
Photographic studio								P	P				
Repair and maintenance shops (other)								P	P		P	P	
Septic tank service											P	P	
Truck and trailer leasing											P	P	
Tire repair, recapping									P	P	P	P	
Upholstery shops								P	P	P	P	P	
<i>Retail or Wholesale Sales</i>													
ABC store									P	P	P		
Air conditioning supplies and equipment									P	P			
Auto accessories									P	P			
Bar									C	C			
Building materials and supplies									P	P		P	P
Clay, stone, concrete, cement products										P		P	P
Convenience store w/fuel sales									P	P	P		
Convenience store w/o fuel									P	P	P		
Drug stores with drive-through										P	P		
Drug stores w/o drive-through									P	P	P		
General retail uses less than 5,000 square feet									P	P	P		
General retail uses greater than 5,000 square feet									C	C	C		
Electrical supplies and equipment									P	P		P	P

Engineering supplies and equipment								P	P		P	P
Farm equipment and supplies								P	P		P	P
Farmers market								P	P	P		
Flea market, indoor								D	P	P	P	P
Flea market, outdoor								D	P		P	P
Fuel dealers									D	D	D	D
Furniture, Wholesale								P	P			
Hardware, wholesale								P	P			
Leather goods, wholesale								P	P			
Medical supplies and equipment								P	P			
Manufactured home sales									S		P	P
Motor vehicle sales, new and used									P	P	P	P
Office equipment and supplies								P	P			
Paint and wallpaper, wholesale								P	P			
Pawnshops											P	P
Petroleum, bulk storage											S	S
Pet Stores									P			
Pet Supplies								P	P			
Restaurants (with drive-through)									P	P	P	P
Restaurants (without drive-through)								P	P	P	P	P
Service station, gasoline								P	P	P		
Shopping centers								S	S	C		
Truck stops									C	C	C	C
<i>Manufacturing and Industrial Uses</i>												
Auto accessories											P	P
Bottling plants											P	P
Clay, stone, concrete, cement												P
Chemicals												S
Cotton											P	P
Dairies	C										P	P
Electrical equipment and supplies											P	P
Farm equipment											P	P
Fertilizer											S	S
Food and beverage, excluding meat, poultry, vinegar, yeast											P	P
Food and beverage											S	S
Furniture											P	P
Glass, glassware, china, pottery											P	P
Hardware, machinery, appliance											P	P
Ice											P	P
Leather and leather products												S
Machine shops											P	P
Medical supplies											P	P
Metal and wood											P	P
Manufactured home, manufacturing											P	P



Micro-distillery, micro-brewery, or micro-winery								S	S	S	S	S
Musical instruments											P	P
Office equipment											P	P
Optical, scientific, jewelry and clocks											P	P
Other operations, outdoor											S	S
Paint												P
Pharmaceutical												P
Plumbing and air conditioning equipment											P	P
Printing plants, newspaper and publishers								C	C		P	P
Storage and salvage yard, outdoor											S	S
Textile and apparel											P	P
Woodworking shops, provided all major operations are conducted within a building									P		P	P
Wood biomass plant												S
<i>Transportation, Warehousing and Utilities</i>												
Bus station								P	P	P		
Communication or broadcast facility									P	P	P	P
Telecommunication towers	C	C	C	C	C	C	C	C	C	C	C	C
Utility lines and related structures	P	P	P	P	P	P	P	P	P	P	P	P
Public utility installation	C	C	C	C	C	C	C	C	C	C	P	P
Taxistand								P	P	P		
Trucking terminals											P	P
Warehousing—self-storage									P		P	P
Warehousing											P	P
Solar generation facility, utility scale	S										S	S
<i>Accessory, Temporary, or Other Uses</i>												
Accessory uses in accordance with section 26-75	P	P	P	P	P	P	P	P	P	P	P	P
Adult establishments												S
Cafeteria and snack bars to serve employees								P	P	P	P	P
Dwelling, accessory to a commercial use								S	D	D	D	D
Electronic game machines and pinball machines within an establishment devoted to another purpose								D	D	D	D	D
Food trucks								D	D		D	D
Home occupations in accordance with section 26-77	P	P	P	P	P	P						
Signs in accordance with article V of this chapter	P	P	P	P	P	P	P	P	P	P	P	P
Temporary events*	D	D	D	D	D	D	D	D	D	D	D	D

Temporary uses							C	C	C	C	C
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\*Except Spring Hope Pumpkin Festival and similar town-wide events which are officially sanctioned by the board of commissioners shall be a permitted use.

(Ord. of 4-10-2006, § 304; Res. of 3-8-2010, amd. no. 2; Res. of 12-3-2012; Ord. of 9-9-2013; Ord. of 8-3-2015; Ord. of 7-11-2016(1); Ord. of 2-6-2017(1); Ord. of 2-5-2018(1); Ord. of 3-4-2019(1); Ord. of 3-4-2019(2); Ord. of 7-6-2021; Ord. of 9-6-2021)

**Sec. 26-71. Dimensional requirements.**

Dimensional requirements shall be in accordance with table 305. Where public water and sewer is not provided, minimum dimensions shall be in accordance with the requirements of the county health department, but in no case less than the requirements of table 305. Additional requirements for special and conditional uses are founded in article VII of this chapter, development standards. Requirements for planned unit developments are found in section 26-72.

TABLE 305.1. RESIDENTIAL REQUIREMENTS

	RA	R-30	R-15	R-8	R-MF	R-MH
Minimum lot area in square feet						
For single-family dwelling or class A manufactured home on individual lot	30,000	30,000	15,000	8,000	12,000	12,000
For two-family dwelling	NA	NA	NA	NA	15,000	15,000
For multifamily dwelling	NA	NA	NA	NA	See article VII	NA
For other principal use	20,000	20,000	20,000	10,000	20,000	20,000
Minimum lot width in feet						
For single-family dwelling or class A manufactured home on individual lot	100	100	100	80	90	90
For two-family dwelling	100	100	100	90	100	100
For multifamily dwelling	NA	NA	NA	See article VII	NA	NA
For other principal use	100	100	100	90	100	100
Minimum lot depth in feet	150	150	150	100	120	120
Minimum front yard in feet	30	30	30	25	30	30
Minimum side yards in feet						
For single-family dwelling or class A manufactured home on individual lot <sup>(1)</sup>	15	15	15	10	12	12
For two-family dwelling or for other principal use <sup>(1)</sup>	15	15	15	10	12	12
Minimum rear yards in feet	30	30	30	25	25	25
Maximum lot coverage in percent	40	40	40	40	40	40
Maximum permitted height in feet	35	35	35	35	35	35

<sup>(1)</sup> For corner lots, add ten feet in width to the side yard that adjoins the side street.

TABLE 305.2. NONRESIDENTIAL REQUIREMENTS

Dimensions		Districts				
		CB	BG	IC	LI	HI
Minimum lot area in square feet						
	For principal use	None	10,000 <sup>(1)</sup>	10,000	30,000	40,000
Minimum lot width in feet						
	For principal use	None	50	100	150	150
Minimum lot depth in feet						
		None	100	100	150	150
Minimum front yard in feet						
		None	30	30	35	35
Minimum side yards in feet						
	For principal use	0 <sup>(2)</sup>	10	10	25	25
Minimum rear yard in feet						
		10 <sup>(3)</sup>	25	25	25	25
Maximum lot coverage in percent						
		100	40	40	40	40
Maximum permitted height in feet						
		35	35	35	50	50 <sup>(4)</sup>

Notes

(1) See article VII of this chapter for additional shopping center standards.

(2) No side yard is required, however, when side yards are provided they shall be at least five feet wide.

(3) 10 feet where there is no public alley; no rear yard is required where a 20-foot public alley abuts the rear property line, but where the abutting public alley is less than 20 feet in width, sufficient setback shall be provided equally by lots on either side of the alley to provide space for a minimum 20-foot rear alley.

(4) 50 feet provided that if any building exceeds 35 feet in height, the depth of the front and rear yard and width of the side yards shall be increased by one foot for each additional two feet or fraction of two feet in excess of 35 feet. The board of adjustment may allow as a conditional use, a principal structure with a height in excess of 50 feet.

(Ord. of 4-10-2006, § 305)

**Sec. 26-72. R&PUD, Residential and Planned Unit Development District.**

- (a) *Purpose.* The purpose of the planned unit development is to provide for larger developments which integrate a variety of compatible land uses into a cohesive project while promoting preservation of open space and good design.
- (b) *District description.* The R&PUD district is a special use district that requires both a zoning amendment and special use permit application in accordance with article VIII of this chapter.
- (c) *Minimum project size.* To be considered for R&PUD district zoning the minimum project size must be at least two gross acres.
- (d) *Uses permitted.* A planned unit development may contain any of the permitted, special, or conditional uses listed for the R-30, R-20, R-15, R-8, R-MF, GB, CB, IC or LI districts. Where an individual use is classified as conditional or special under conventional zoning, no separate conditional or special use permit is required.
- (e) *Accessory uses.* Accessory uses shall meet the requirements of section 26-75. One manufactured home or mobile office may be permitted as a site construction trailer. It shall be permitted as a temporary use and must be removed after development of the project is completed.
- (f) *Required common area and open space.* All common areas and open space required by this section shall be deeded to a homeowner's association and the developer or owner shall file with the zoning administrator and record in the county register of deeds office a declaration of covenants and restrictions

as well as regulations and bylaws that will govern the open space. Provisions shall include, but not be limited to the following:

- (1) The association shall be established before the homes, buildings or uses are sold.
- (2) Membership shall be mandatory for each buyer and all successive buyers, unless another arrangement is approved by the board of commissioners which adequately protects the interests of the town and the owners.
- (3) The association shall be responsible for the liability insurance, local taxes maintenance of recreation and other facilities.
- (4) Any sums levied by the association that remain unpaid shall become a lien on the individual owner's property which shall be subordinate only to tax and mortgagee liens unless another arrangement is approved by the board of commissioners which adequately protects the interests of the town and the owners.
- (5) An owner of each dwelling unit or each homeowner or other building owner shall have voting rights in the association.
- (6) Uses of common property including parks and recreation facilities shall be appropriately limited.
- (7) The following information shall also be provided:
  - a. The name of the association.
  - b. The manner in which directors of the association are to be selected.
  - c. The post office address of the initial registered office.
  - d. The name of the city and county in which the registered office is located.
  - e. The number of directors constituting the initial board of directors.
  - f. A contact list including the name, address and phone number of all directors and officers of the association shall be submitted to the town annually.

(g) *Dimensional requirements.*

- (1) Residential requirements.
  - a. Single-family dwelling (including class A manufactured homes on individual lot), or two-family dwelling requirements are set forth in the following table:

TABLE 306.7.1

	Single-family dwelling	Two-family dwelling
Minimum lot area (square feet)	12,000	15,000
Minimum lot width (feet)	90	100
Minimum lot depth (feet)	120	120
Minimum front yard (feet)	30	30
Minimum side yard (feet)	12	12
Minimum rear yard (feet)	25	25
Maximum lot coverage (percent)	40	40
Maximum height (feet)	35	35

- b. *Multifamily dwellings.* Dimensional and density requirements for multifamily dwellings in a planned unit development shall be as indicated for multifamily dwellings in section 26-250. Where the multifamily dwellings abut either a single-family section or phase within the same

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development, or an adjacent property(s) zoned for a single-family use, a yard of at least 50 feet shall be provided separating the uses.

- c. *Townhouses.* Townhouses shall be developed in accordance with the standards in section 26-250, however maximum density allowed in the R&PUD district shall not exceed one unit per 8000 square feet in net site area of the townhouse development. The site area not covered by dwelling units may be made part of the individual townhouse lots or clustered as common open space and dedicated to a homeowners' association, or a combination of the two in accordance with subsection (f) of this section.
- d. *Clustered, detached single-family dwellings.* Clustering of single-family lots may be permitted in situations where either site topography makes conventional development impractical or, special environmental features need to be protected. In a clustered subdivision, the minimum area for individual lots may be reduced, but shall not be less than 6,000 square feet. The difference between the lot area required by table 306.7.1 and the reduced lot dimensions shall be dedicated to a homeowners' association as common open space in accordance with subsection (f) of this section.
- e. *Common lot line dwellings (CLL).* Common lot line dwellings may only be permitted as a building type in an R-PUD zone. A common lot line dwelling is a detached single-family unit where the structure is situated with at least one wall against a property line of the lot. The purpose of common lot line (CLL) development is to provide additional housing options within a planned unit development where a smaller house and/or lot size is desired. The development type may allow for more efficient use of land within a larger development; CLL development is not intended to be the sole development type within a planned unit development.
  1. *Required lot area.* The required lot area for a common lot line dwelling may be less than that required for single-family dwellings in table 306.7.1 above, but in no case shall be less than 6,000 square feet. If the lot area is less than 12,000 square feet, the difference between the required area in table 306.7.1 and the reduced area shall be dedicated to a homeowners' association in accordance with subsection (f) of this section.
  2. *Setbacks.* For legal purposes, the setback for the wall situated against the lot line (zero-wall) shall be one inch from the property line.
    - (i) Front yard: 20 feet.
    - (ii) Non-zero side yard, interior lots (lots within the CLL development): Two times the regular side yard setback of the district.
    - (iii) Non-zero side yard, peripheral lots and corner lots (lots adjacent to other types of development within the PUD): 24 feet.
    - (iv) Rear yard: Ten feet. Zero rear yard setback shall be permitted subject to plan review.
  3. *Accessory structures.* All structures which are clearly subordinate to the principal dwelling shall conform to the setback requirements for the applicable zoning district.
  4. *Wall maintenance easement.* A perpetual wall maintenance easement shall be provided on the lot adjacent to the zero property line, which, with the exception of freestanding walls or fences, shall be kept clear of structures. The easement shall be shown on the plat and incorporated into each deed transferring title to the property. The wall shall be maintained in its original color and treatment unless otherwise agreed upon in writing by the affected property owners. Roof overhangs may not encroach upon easement. Easement dimension: five feet for one-story buildings and ten feet for two-story buildings.

- (2) *Nonresidential requirements.* Dimensional requirements for nonresidential uses in a planned unit development shall comply with the dimensions listed in table 306.7.2 above, except that industrial uses shall comply with the dimensional requirements for the LI district in table 305.2. Office centers, institutional and industrial complexes shall be allowed in accordance with the requirements in section 26-81. Shopping centers are permitted in a planned unit development and shall be built in accordance with all the requirements of section 26-253.

TABLE 306.7.2. DIMENSIONAL REQUIREMENTS

Minimum lot area (square feet)	20,000
Minimum lot width (feet)	90
Minimum lot depth (feet)	120
Minimum front yard (feet)	30
Minimum side yard (feet)	12
Minimum rear yard (feet)	25
Maximum lot coverage (percent)	40
Maximum height (feet)	35

- (h) *Application procedure.* R&PUD district projects require rezoning to a special use district. The applicant for R&PUD zoning shall apply for a special use permit according to the procedures for special uses in article VIII of this chapter. A master development plan meeting the site plan requirements of section 26-318 must be submitted for the entire development site. Large projects may be phased. All phase lines shall be clearly marked on the master development plan. No phase or section of an approved planned unit development shall be revised, enlarged or amended without first resubmitting that phase or section to the planning board and the board of commissioners.
- (i) *Phased development.*
- (1) Phased development shall be allowed if the entire project receives approval.
  - (2) All open space, including active recreation areas, for the entire project must be recorded and/or provided for in the homeowner's association with the development of the first phase.
  - (3) Phased development is allowed only if the membership of the association includes the entire project.
  - (4) No subsequent phases may be commenced until all physical improvements of the previous phase including streets, sidewalks, utilities, electrical service, recreation areas and the like have been installed or a performance bond or letter of credit is submitted for their installation.

(Ord. of 4-10-2006, § 306)

### Sec. 26-73. Special use districts.

- (a) *Purpose.* A special use district corresponds to each of the other districts authorized in this article. It is recognized that certain types of zoning districts would be inappropriate at particular locations in the absence of special conditions. Where the applicant desires property to be rezoned to such a district, the special use district (SUD) is a means by which special conditions can be imposed in the furtherance of the purposes of this article. The special use district classification will be considered only in response to a petition by the owners of all of the property to be included. Specific conditions applicable to these districts may be proposed by the petitioner or the town or its agencies, but only those conditions mutually approved by the town and the petitioner may be incorporated into the special use permit requirements. If, for any reason, a condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, it is the intent of this chapter that the authorization of

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such special use permit shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification.

(b) *Uses permitted.*

(1) Within a special use district, only those uses authorized by this article as "permitted," "development standards," "conditional," or "special" within the zoning district with which the special use district corresponds shall be permitted. In addition, all other requirements of the corresponding district and other requirements of this chapter shall be met.

(2) If the proposed use is classified as either "conditional" or "special" in table 304.1 in section 26-70 for the corresponding district, all of the applicable development standards in article VII of this chapter for the proposed use shall be met. In addition, within a special use district, no use shall be permitted except pursuant to a special use permit authorized by the board of commissioners that shall specify the use or uses authorized. The special use permit may further specify additional conditions found to be reasonable and appropriate based on specific issues surrounding the use proposed.

(c) *Review procedures.* All requests for rezoning to a special use district shall be heard by the board of commissioners. Where the use proposed for a special use district would be classified as conditional in the corresponding general use district, all hearings shall be conducted by the board of commissioners instead of the board of adjustment.

(Ord. of 4-10-2006, § 307)

### **Sec. 26-74. Overlay districts.**

(a) Historic district regulations. (Reserved)

(b) Traditional neighborhood district regulations. (Reserved)

(Ord. of 4-10-2006, § 308)

### **Sec. 26-75. Accessory uses, buildings and structures.**

(a) *Accessory structures and uses.* This section authorizes the establishment of accessory uses and structures that are incidental and subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses and structure, provided they comply with the standards set forth in this section to reduce potentially adverse impacts on surrounding lands.

(b) *Procedure for establishment.* Accessory uses or structures may be approved in conjunction with the approval of the principal use or subsequently following the establishment of the principal use. No accessory use or structure shall be approved, established, or constructed before the principal use is approved in accordance with the Spring Hope Zoning Code.

(c) *General standards.*

(1) *Permitted accessory uses and structures.* Permitted accessory uses and structures include those listed in this section and those that the town manager or zoning administrator determines meet the following:

- a. Are clearly incidental to an allowed principal use or structure;
- b. Are subordinate to and serving an allowed principal use or structure;
- c. Are subordinate in area, extend and purpose to the principal use or structure;

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- d. Contribute to the comfort, convenience or needs of occupants, business or industry associated with the principal use or structure.
- (2) *Located on same lot as principal use.* All accessory uses and structures shall be located on the same lot as the principal use or structure and not located within any street right-of-way, except as allowed by the Spring Hope Zoning Code for specific accessory uses and structures.
- (3) *Compliance with ordinance requirements.* Accessory uses and structures shall conform to the applicable requirements of the Spring Hope Zoning Code, including this section, the district provisions in article II, development standards in article IV, and development standards in article VII.
- (d) *Standards for accessory structures.*
- (1) *Dimensional standards.* Accessory structures, which include accessory buildings, shall meet the applicable zoning district dimensional standards and district standards, except as provided in this section.
- (2) *Easements.* Accessory structures may not be located in an easement unless the easement or easement holder expressly states the allowance in writing.
- (3) *Drive-up accessory structures.* Drive-up accessory structures, such as automated teller machines, ice vending, coffee stands, and similar accessory structures that provide drive-up or walk-up service and which are located within a surface parking area shall meet the following standards:
- a. The accessory structure shall not be placed in any required parking spaces.
- b. The location shall be designed so that any access or stacking lanes do not extend into a primary drive aisle.
- c. The surface parking area shall be configured and restriped to maintain access and circulation to the principal use(s).
- d. Any roof-top mechanical equipment shall be screened from the adjacent streets.
- (4) *Residential accessory structures.* An accessory structure, including an accessory building, for a single-family or duplex dwelling shall meet the following:
- a. *Setbacks.*
1. *Rear and side.* Accessory structures must setback three feet from side and rear lot lines.
2. *Corner side.* For corner lots, accessory structures must setback five feet from the side street.
3. *Alleys.* For accessory structures that are located along an alley, the structure must setback a minimum of ten feet from the rear lot line abutting the alley.
4. No accessory structure shall be located closer than ten feet to any other building or structure.
- b. *Utilities.* Utility service, such as water, sewer and electricity, to the accessory structure shall be provided by branching service from the principal structure.
- c. *Accessory buildings.*
1. *Locations.* In addition to the setback requirements, accessory building shall not extend in front of the rear line of primary structure, except on lots that are greater than two acres in area, for which one accessory building may be located in the front of the principal structure provided it meets the street setback. Car garages and carports may be placed equal to the front plane of the primary structure.



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2. *Size.* The maximum total area of all accessory buildings on the lot shall not exceed 50 percent of the gross floor area of the principal structure or 700 square feet, whichever is greater. Height of accessory buildings shall not exceed 35 feet.

Exemption: Parcels zoned residential-agricultural (RA) and located within the extra-territorial jurisdiction (ETJ) are exempted from the size and number of accessory structures.

3. Recreational uses and buildings accessory to apartment complexes shall be in accordance with section 26-250.

(e) *Standards for specific accessory uses.*

- (1) *Accessory dwelling unit.* An accessory dwelling unit (ADU) is permitted as accessory to a single-family detached dwelling if it complies with the following standards:

- a. *General.*

1. No more than one ADU shall be located on a lot with a single-family detached dwelling.
2. An ADU shall have a maximum of two bedrooms.
3. An ADU and an ADU and the principal dwelling shall have the same street address and mailbox.
4. Setback requirement for ADU, shall be located at a minimum of ten feet from the front plane of the primary structure on the lot.
5. An ADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit.
6. An ADU and principal dwelling shall utilize the same driveway, unless the ADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot).
7. An ADU shall be served by water, sanitary sewer, gas and electrical utilities as part of the principal dwelling.

- b. *Design.* An ADU shall maintain the architectural design, style, appearance and character of the principal dwelling by incorporating design elements such as similar materials, facade treatment, colors, window style, roof design, and roof pitch.

- (2) *Caretaker dwelling.* One caretaker dwelling unit is permitted as accessory to a commercial, institutional, or industrial use either within the principal building or in an accessory building on the lot within IC, LI, HI, and GB zoning districts.

- (3) *Portable storage containers.* Portable storage containers are allowed as accessory to the principal use on the same lot, provided they comply with the following standards:

- a. *Residential districts.* Portable storage containers located within any residential district shall comply with the following standards:

1. A portable stage container is not subject to the requirements in subsection (d), standards for accessory structures; however, it must be located on the lot and outside any street right-of-way.
2. No more than two portable storage containers may be located on a lot with a single-family or duplex dwelling.
3. The gross square footage of a portable storage container on a lot with a single-family dwelling or duplex dwelling shall not exceed 160 square feet.

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4. A portable storage container may remain on a lot up to 30 days in duration, except when the container is used in association with construction on the same site, which the container may remain for the duration of the construction project for a maximum of one year and shall be removed upon completion. Extension beyond that timeframe may be renewable upon discretion of the town manager or zoning administrator.
  - b. *Business and special districts.* Portable storage containers located within any business or special district shall comply with the following standards:
    1. Portable storage containers shall meet the requirements in subsection (d), standards for accessory structures.
    2. The number, size and duration of portable storage containers on a lot are not regulated.
    3. Portable storage containers shall not be placed between a principal structure and a public street, except in the LI and HI districts.

(Ord. of 4-10-2006, § 309.1; Res. of 9-8-2008(02); Ord. of 12-7-2020; Ord. of 9-6-2021)

## **Sec. 26-76. Fences and walls.**

Fences and walls are permitted as accessory uses, provided that they comply with the following:

- (1) No residential fence or wall in any front yard setback shall be built to height greater than five feet above grade.
- (2) No residential fence or wall located in the side or rear yard shall be greater in height than six feet above grade. Notwithstanding the provisions of this section, a fence up to eight feet in height shall be permitted between any residential use and any business, commercial or industrial use.
- (3) Within commercial, industrial, or non-residential zoning districts, fences or walls shall not exceed 12 feet in height. The zoning administrator may approve commercial or industrial fences in excess of 12 feet in height when exceptional cases are demonstrated, but not to exceed 20 feet in height.
- (4) No fence or wall shall be constructed within a general drainage or utility easement which will block or materially impede the flow of stormwater runoff.
- (5) No fence, post, or wall shall be installed so as to obstruct visibility at a street intersection or driveway entrance as regulated in section 26-79.
- (6) Fences or walls in residential districts may be constructed of wood, stone, brick, decorative concrete block, wrought iron, products created to resemble these materials, or a combination of any of these materials. Materials such as, but not limited to, plywood, particleboard, sheet metal, concrete slabs, or concrete barriers shall not be used for fencing or for walls.
- (7) Within residential districts, no open wire fencing of a type that could inflict injury from casual contact (such as barbed or razor wire fencing) and broken glass atop walls is permitted; however, within commercial or industrial districts, no barbed or razor wire fencing is permitted below a height of eight feet.
- (8) Electric fences, except for livestock fences within residential agricultural (AR) zoning districts, shall be prohibited. Invisible pet fences are not considered "electric."
- (9) Notwithstanding the provisions of subsections (1, 2 and 3), an open wire fence up to 12 feet in height shall be permitted for safety reasons around towers, electrical substations, and similar uses. At a minimum, the bottom four feet of such fencing shall be screened from view from nearby public streets using a planted hedge.
- (10) Other requirements.

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- (a) Fences must be erected with the posts, supports, stringers and all unfinished materials facing the owner's property and residence or other primary structure.
  - (b) A certificate of zoning compliance is required before erecting a fence.
  - (c) A fence or wall must be completed within 90 days of the issuance of the certificate of zoning compliance.

(Ord. of 4-10-2006, § 309.2; Res. of 9-8-2008(02); Ord. of 2-4-2019(1))

### **Sec. 26-77. Home occupation regulations.**

- (a) Where permitted. Home occupations are permitted in all districts only as an incidental use and must comply with the following regulations:
  - (1) No more than two persons other than a resident of the dwelling shall be engaged in such occupation.
  - (2) No more than three customers, clients or patrons shall come to the dwelling at any one time, nor more than 24 in any one day.
  - (3) No more than two vehicles may be used in the conduct of the home occupation. Any such vehicle shall be parked off the street. The parking of any such vehicles on the property, other than an automobile, shall be in an enclosed building as described in subsection (4) of this section, or shall be a conditional use, subject to approval by the board of adjustment.
  - (4) No more than 25 percent of the total actual floor area of the dwelling or 500 square feet, whichever is less, shall be used in the conduct of the home occupation. In addition, one accessory building, not exceeding 1,000 square feet, shall be a conditional use in connection with the home occupation, to house commercial vehicles and/or for storage of materials used in connection with the home occupation. All lot coverage, dimensional, and other requirements of this chapter must be met by such accessory building. Such accessory building must resemble a residential garage. A sketch of the proposed building and list of the materials to be used on the outside must be submitted with the application for a conditional use permit.
  - (5) A home greenhouse shall be permitted provided that such greenhouse meets the requirements of section 26-75 and that any sales in connection with such greenhouse meet the requirements of this section.
  - (6) No outdoor sales or storage shall be permitted in connection with the home occupation.
  - (7) The exterior appearance of the dwelling shall not be altered in such a manner nor shall the occupation in the residence be conducted in such a way as to cause the premises to differ from its residential character in exterior appearance.
  - (8) The use may 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 and television reception or other nuisance and shall not be volatile or present a fire hazard, nor may the occupation discharge into any waterway, stream, lake, or into the ground or a septic tank any waste which will be dangerous or a nuisance to persons or animals, or which will damage plants or crops.
  - (9) 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.
  - (10) There shall be no more than two deliveries per day to the premises of materials to be used in conjunction with the home occupation and these shall take place between the hours of 7:00 a.m. and 9:00 p.m.

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- (11) No customers, clients, patrons, or employees other than the residents' household may be on the premises in connection with the home occupation before 7:00 a.m. or after 9:00 p.m.
  - (12) The following are strictly prohibited as home occupations: car washes, commercial automotive repair garages, truck terminals, slaughterhouses, paint, petroleum and chemical plants, any occupation which involves the storage of liquid petroleum, gasoline, kerosene or other flammable liquids, funeral homes and mortuaries, adult uses, animal hospitals and kennels, bottled gas sales.
  - (13) Any home occupation not complying with these regulations shall be a special use.

(Ord. of 4-10-2006, § 309.3)

### **Sec. 26-78. Supplementary dimensional requirements; exceptions and modifications.**

- (a) Existing front yard setbacks. The minimum front yard requirements of this article for dwellings shall not apply on any lot where the average front yard depth of existing dwellings is less than the minimum required. In such situations, the subject dwelling is not required to meet the district minimum front yard setback, but must meet either the adjacent dwelling with the greatest front yard depth, or the average front yard of existing dwellings located wholly or in part within 100 feet on each side, whichever is greater. When averaging to determine yard depth, only dwellings within the same block, in the same zoning district, and on the same side of the street may be used.
- (b) Corner lot set backs. In any residential district, the side yard requirements for corner lots shall be increased by ten feet along the side abutting a street. The front and side yards of the lot shall be designated at the time of permitting.
- (c) The board of adjustment shall review as a conditional use structures which exceed the height limitations of this article such as, church spires, belfries, cupolas, domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, radio towers, masts, aerials, and similar structures.
- (d) Uncovered stairs, landings, terraces, porches, balconies, and fire escapes may project into any required setback, but such projection may not exceed six feet and may not be closer than ten feet to any lot line.
- (e) Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required setback, but such projection shall not exceed three feet.
- (f) The requirements of this article do not apply to roads, water, sewer, gas, electric, telephone and similar utility lines except where specifically mentioned.
- (g) Minimum required width on lots which front on the turnaround circle of a cul-de-sac shall be measured at the front yard setback line.

(Ord. of 4-10-2006, § 310.1)

### **Sec. 26-79. Visibility at intersections.**

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2½ and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.

(Ord. of 4-10-2006, § 310.2)

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### **Sec. 26-80. Street access required.**

No principal building, structure, or use may be erected or established on any lot which does not abut at least 20 feet on one of the following:

- (1) A public street dedicated to and maintained by the town or the state department of transportation;
- (2) A street constructed to the standards in the chapter 24, subdivisions, with a written agreement concerning maintenance of the street;
- (3) A private recorded access easement serving a lot at least two acres in size for the exclusive use of a single residential unit established on such lot, and provided that the access is maintained in a condition passable for emergency service vehicles, and further provided that no such access may be established closer than 150 feet to any other previously recorded access.

(Ord. of 4-10-2006, § 310.3)

### **Sec. 26-81. Complexes.**

Office centers, institutional, industrial and similar nonresidential complexes may have more than one principal building on a single lot, provided that the following requirements are met:

- (1) If the land area in the site is over two gross acres, the use shall be considered a planned unit development, and must be developed according to the provisions of section 26-72.
- (2) Uses in complexes shall be limited to those permitted within the zoning district in which the project is located.
- (3) The overall intensity of land use shall be no higher, and the standard of open space no lower than that permitted in the district in which the project is located.
- (4) The distance of every building from the nearest property line shall be in accordance with the front, side and rear yard requirements of the district in which the project is located. No building shall be closer to any other building in the complex than the minimum side yard required in the district in which the project is located.
- (5) The building height shall not exceed the height limits permitted in the district in which the project is located.
- (6) Shopping centers shall be allowed only in accordance with the requirements of section 26-253 or as part of a planned unit development, or in buildings existing on the effective date of the ordinance from which this section is derived.

(Ord. of 4-10-2006, § 310.4)

### **Secs. 26-82—26-105. Reserved.**

## ***ARTICLE III. NONCONFORMITIES***

### **Sec. 26-106. Compliance with requirements.**

A lawful pre-existing use, structure, or lot which does not meet the requirements of this chapter is called a nonconformity. Special provisions apply to nonconformities and these are listed in sections 26-107 to 26-111. In lieu of the provisions in this section, nonconforming signs shall comply with the requirements in article

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IV of this chapter, and nonconforming manufactured home parks shall comply with the requirements of article VI of this chapter.

(Ord. of 4-10-2006, art. IV(intro.))

### **Sec. 26-107. Existing substandard structures.**

- (a) The conforming use of a structure as explained in section 26-110, existing at the time of the adoption of the ordinance from which this section is derived, may be continued although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area and lot coverage provisions of this chapter. Such structures are called substandard structures.
- (b) Substandard structures with conforming uses may be added to or enlarged provided that the enlargements comply with the yard, height, parking, loading, access and all other applicable requirements of this chapter for the district in which such a structure is located.
- (c) Substandard structures which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed and shall comply with the yard, height, parking, loading, access and all other applicable provisions of this chapter for the district in which such structure is located unless the structure is situated on a substandard lot of record, in which case the provisions concerning substandard lots of record shall apply.
- (d) A substandard structure may not be moved off the lot on which it is located unless, when relocated, it complies with the regulations for the district in which it is located.

(Ord. of 4-10-2006, § 401)

### **Sec. 26-108. Existing nonconforming uses; exceptions.**

The lawful nonconforming use of a structure, land or water existing at the time of the adoption of the ordinance from which this section is derived may be continued except that:

- (1) Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be enlarged or extended. Additional structures may not be added which will be occupied by the nonconforming use, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming.
- (2) Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted provided it does not extend the nonconforming use. A structure occupied by a nonconforming use may be changed to make the structure more in character with the uses permitted in the district in which it is located.
- (3) If such nonconforming use is damaged by fire, explosion, flood or other calamity to the extent of more than 75 percent of its current equalized value, it shall not be restored except so as to comply with the use provisions of this article.
- (4) If such nonconforming use is discontinued or terminated for a period of more than 180 days, any future use of the structure, land or water shall comply with the provisions of this chapter.
- (5) A nonconforming use may not be moved off the lot on which it is located unless when relocated, it complies with the regulations for the district in which it is relocated.
- (6) The board of adjustment may permit as a conditional use a change in the nonconforming use, provided that the requirements of subsections (1) through (5) of this section are met and the board of adjustment finds that such new use would be more in character with the uses permitted in the district. In permitting such change, the board of adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

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- (7) Once a nonconforming use has been changed or altered so as to comply with the provisions of this article, it shall not revert back to a nonconforming use. Once the board of adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the board of adjustment. If the structure occupied by a nonconforming use is changed so as to be more in character with the uses permitted in the district, it shall not subsequently be changed to be less in character.

(Ord. of 4-10-2006, § 402)

### **Sec. 26-109. Existing vacant substandard lots.**

- (a) Where the owner of a lot at the time of adoption of the ordinance from which this article is derived or his successor in title thereto does not own sufficient land to enable him 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 percent below the minimum specified in this article, 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 percent 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. A letter of approval from the county health department is required 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.
- (b) If two or more adjoining and vacant lots are in one ownership when this chapter is adopted or at any time after the adoption of the ordinance from which this section is derived, and such lots individually do not meet the minimum dimensional requirements of this chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and areas for the district in which located, and therefore, the provisions of subsection (a) of this section do not apply.

(Ord. of 4-10-2006, § 403)

### **Sec. 26-110. Conforming uses and structures.**

- (a) Any use or structure existing prior to the effective date of the ordinance from which this article is derived, which conforms to the regulations of this article for permitted uses and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located may be continued, provided any changes shall comply with the provisions of this article.
- (b) Any structure or use existing prior to the effective date of the ordinance from which this article is derived, which would be permitted by this article as a special or conditional use in the district in which it is located may be continued as if a special or condition use permit had been applied for and issued, provided that any changes shall comply with the provisions of this article.

(Ord. of 4-10-2006, § 404)

### **Sec. 26-111. Effect of amendment.**

If subsequent amendments to this article or the official zoning map result in the creation of additional nonconformities or conformities, such nonconformities and conformities shall be governed by the provisions of this article unless otherwise stated in the amendment.

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(Ord. of 4-10-2006, § 405)

**Secs. 26-112—26-135. Reserved.**

***ARTICLE IV. DEVELOPMENT STANDARDS***

**Sec. 26-136. Parking and loading requirements.**

General requirements. When any building or structure is erected, modified, enlarged or increased in capacity, or any open use is established, modified or enlarged, the requirements of this section shall be met. The following regulations concerning required parking shall apply:

- (1) Each zoning permit application filed with the zoning administrator shall include information as to the location and dimensions of required off-street parking space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the zoning administrator to determine whether or not the requirements of this section are met. No certificate of occupancy shall be issued until the parking requirements and regulations are fully met.
- (2) 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 50 percent of the parking space required for churches, theaters, assembly halls, or similar uses whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays. The applicant must demonstrate that a parking agreement is in place between uses.
- (3) If the off-street parking space required by this article 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 main entrance to such principal use.
- (4) Parking space sizes shall be governed by the following dimensions:

Parallel stall	20 feet by 9.0 feet
Angle stall	19 feet by 8.5 feet
90 degree stall	19 feet by 9.0 feet

- (5) Minimum aisle widths shall be:

Parking Angle (in degrees)	Aisle Width in Feet	
	One Way Traffic	Two-Way Traffic
0;deg;	12	24 (0 degrees only)
30;deg;	11	N/A
45;deg;	13	N/A
60;deg;	18	N/A
90;deg;	24	24

- (6) A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single- and two-family residential shall be at least 24 feet wide.

(Ord. of 4-10-2006, § 501.1(intro.), (A)—(F))



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## Sec. 26-137. Design standards for off-street parking.

- (a) *Surfacing.*
- (1) Required parking spaces, access drives, and loading areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.
  - (2) Access drives shall be paved and maintained from the curblines to a point at least ten feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.
  - (3) Paving shall not be required for:
    - a. Parking facilities used on an irregular basis for churches, private clubs or other similar nonprofit organizations;
    - b. Parking facilities for residential uses where six or fewer spaces are required;
    - c. Parking areas for agricultural uses in the RA district; parking areas for tracked heavy construction equipment, skid-mounted equipment and similar equipment, provided they are constructed with an all-weather surface.
- (b) *Markings.* Each parking stall shall be marked off and maintained so as to be distinguishable.
- (c) *Lighting.* Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
- (d) *Yards.* All parking lots shall observe the minimum planting yard requirements of article VI of this chapter, landscaping.
- (e) *Curbs or bumpers.* The required yards shall be set off from parking areas by either continuous curb or one non-contiguous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five inches or more than two feet high.
- (f) *Drainage.* Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the zoning administrator may exempt the developer from this requirement, provided that adequate provision is made for drainage.
- (g) *Separation of bumper and walkways.* In the event any parking stall abuts upon a walkway there shall be a space of 3½ feet between the wheel bumper or curb and the edge of the walkway.
- (h) *Entrance and exits.* On all corner lots, all vehicular openings shall be located at least 20 feet from the point of intersection of the established street right-of-way lines. No entrance or exit, whether on a corner lot or not, shall exceed 30 feet in width at the property line or 40 feet at the curblines. There shall be a minimum distance between driveways of 25 feet measured along the curblines unless such driveways are less than five feet apart.
- (i) *Internal circulation.* Sufficient area shall be provided within the property lines of the parking lot, exclusive of required yards, so that all vehicles may enter and leave the lot in a forward motion.

(Ord. of 4-10-2006, § 501.1(G))

## Sec. 26-138. Exceptions.

- (a) The zoning administrator may withhold a permit or certificate of occupancy if a parking layout not specifically prohibited by this article would be likely to cause avoidable safety or traffic congestion problems until modification is made. The applicant may appeal the zoning administrator's decision to the board of adjustment under the normal procedure for an appeal.

- (b) If a peculiar characteristic of an establishment makes the requirements in this article clearly unrealistic, the board of adjustment may grant the applicant a parking modification.
- (c) Central business district uses. It is recognized that due to the special nature of the central business district and the desire to promote good design and preserve the character of Spring Hope's downtown, the off-street parking requirements of table 501.1 in section 26-139 may not be feasible or desirable. In the CB, Central Business District, the zoning administrator may allow a new use to be established which is served by a combination of off-street parking, on-street parking or municipal lots. The applicant must provide sufficient information to allow the zoning administrator to determine if sufficient parking is available for the use, so that the spirit of this chapter is met, and no foreseeable traffic congestion problems will be created.

(Ord. of 4-10-2006, § 501.1(H))

**Sec. 26-139. Minimum number of parking spaces.**

The minimum number of required off-street parking spaces shall be calculated as provided in table 501.1. In the case of a building or use not expressly listed in table 501.1, 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, except for shopping centers which are listed specifically.

TABLE 501.1. OFF-STREET PARKING STANDARDS

Uses	Number of Required Off-Street Parking Spaces
<i>Residential Uses</i>	
Dwellings, single- and two-family	2 per dwelling unit
Dwellings, multifamily	2 spaces for each dwelling unit, plus 1 visitor space for each 4 dwelling units
Townhouses	2 spaces for each dwelling unit, plus 1 visitor space for each 4 dwelling units
Group housing, such as boardinghouses, dormitories and similar establishments	1.2 for each bedroom
Class A manufactured homes on individual lots	2 per manufactured home
Manufactured home parks	2 spaces for each manufactured home, plus 1 visitor parking space for each 4 manufactured homes
<i>Office and Institutional Uses</i>	
Financial institutions	1 for each 150 square feet of gross floor area or fraction thereof, plus safe facilities to accommodate passengers waiting in line for drive-in windows and banking machines, if any
Hospitals	1 space for each 150 square feet of gross floor area or fraction thereof
Libraries	1 space for each 200 square feet for use by the public or fraction thereof
Museums and art galleries	1 space for each 800 square feet of gross floor area or fraction thereof
Nursing homes, family care homes and similar institutions	0.4 times the maximum lawful number of occupants
<i>Offices</i>	

Doctor or dentist	6 for each doctor or dentist, plus 1 for each other employee
Other	1 for each 300 square feet of gross floor area or fraction thereof
Places of assembly, including clubs, lodges, churches, funeral parlors, auditoriums, gymnasiums, amusement parks and similar places	1 for each 3 seats, plus 1 for each 100 square feet of floor area used for assembly, but not containing fixed seats, or fraction thereof
<i>Schools and Colleges</i>	
Day nurseries, kindergartens, elementary, junior high	2 for each 750 square feet of classroom floor area or fraction thereof, plus 1 for each administrative office, plus auditorium/gymnasium parking if applicable
Senior high, and college, trade, vocational with dormitories	10 for each 750 square feet of classroom floor area or fraction thereof, plus 1 for each administrative office, plus auditorium/gymnasium/dormitory parking requirement if applicable
College, trade, vocational without dormitories	10 for each 750 square feet of classroom floor area or fraction thereof, plus auditorium/gymnasium parking requirement if applicable
<i>Commercial Uses</i>	
Entertainment, Commercial (indoor)	1 per 200 square feet of activity area
Entertainment, Commercial (outdoor)	1 per 400 square feet of lot area accessible to the public
<i>Campground</i>	
Tent	1 for each campsite, plus office parking requirement
Recreational Vehicle	1 for each campsite, plus office parking requirement
Car wash	5 per wash lane
Golf course (not including putting greens accessory to multifamily dwellings or hotels or motels)	4 per hole
Hotel or motel	1.2 for each guest room, plus requirement for restaurant or other facilities if provided
<i>Restaurant</i>	
Drive-in or take out	Minimum of 15 spaces, plus one additional for each 50 square feet of gross floor area or fraction thereof
Other	1.2 for each 100 square feet of gross floor area or fraction thereof
Automotive repairs	4.5 per 1,000 square feet of gross floor area or fraction thereof within the central business (CB) zoning district; 6.5 per 1,000 square feet of gross floor area or fraction thereof within the general business (GB) zoning district; 7.5 per 1,000 square feet of gross floor area or fraction thereof within the interchange commercial zoning district; 8 per 1,000 square feet of gross floor area or fraction thereof within the light-industrial (LI) and heavy-industrial (HI) zoning districts
Service station	2 for each gas pump, plus 3 for each grease rack or similar facility
Shopping centers (in lieu of individual store parking requirements)	5.5 per 1,000 square feet of gross floor area or fraction thereof
Low generator retail and service establishments such as furniture, appliance, household equipment, carpet and hardware	1 for each 500 square feet of gross floor area or fraction thereof, including any outdoor sales area

stores, repair shops, including shoe repair, contractors' showrooms, drapery, paint and wallpaper, upholstery, interior decorator, motor vehicles sales, plant nurseries	
High generator commercial uses, such as retail store, wholesale outlet stores, department stores, discount stores, drug stores, coin-operated laundries, variety stores	1 for each 200 square feet of gross floor area or fraction thereof, including any outdoor sales area
<i>Industrial Uses</i>	
Industrial and research uses, warehousing and very low customer volume wholesaling operations	1 for each employee on the largest shift

(Ord. of 4-10-2006, § 501(I), (J); Ord. of 12-7-2020)

**Sec. 26-140. Off-street loading requirements.**

- (a) Every building or structure used for business, trade, industry, or office and institutional purposes, shall provide loading space as indicated in this section. Each loading space shall be no less than 15 feet in width, and 30 feet in depth. Each space shall also be no less than 15 feet in height if such space is covered. It shall have access driveways to public streets or alleys which driveways shall be at least 24 feet wide and with adequate turning radii for the delivery vehicles customarily associated with the particular use. If there is not more than one delivery and pickup during the hours when a retail trade, office, or institutional establishment is open to patrons, such space may be combined with the existing parking space on the premises. Loading space shall be provided in accordance with the following schedule:
  - (1) Retail business: One space for each 40,000 square feet of gross floor area or fraction thereof.
  - (2) Wholesale trade and industry: One space for each 10,000 square feet of gross floor or fraction thereof.
  - (3) Office and institutional uses, including hotels and motels: One space for each 50,000 square feet of gross floor area or fraction thereof.
  - (4) As well as meeting the requirements of subsection (a)(3) of this section, elementary, junior high, or high schools, kindergartens, nurseries and day care centers shall also provide a safe place off the street for the loading and unloading of children from automobiles and buses.
- (b) Exceptions.
  - (1) If a peculiar characteristic of an establishment makes the requirements in this section clearly unrealistic, the board of adjustment may grant the applicant a modification of the loading requirements in regard to that particular establishment.
  - (2) In the central business district, the zoning administrator may allow a new use to be established in an existing building even if all loading requirements of this section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use, and traffic or safety hazards will not be created.

(Ord. of 4-10-2006, § 501.2)

**Secs. 26-141—26-163. Reserved.**

## ***ARTICLE V. SIGNS***

### **Sec. 26-164. Sign standards.**

- (a) No sign or sign structure may be erected, posted, hung, painted, re-hung, repainted, repaired, replaced, changed or maintained in any district except in compliance with this section. This article shall not apply to signs erected in conjunction with the Spring Hope Pumpkin Festival and similar town-wide events which are officially sanctioned by the board of commissioners.
- (b) General sign regulations.
  - (1) No sign or sign structure shall be erected or constructed to interfere with vision clearance as defined in section 26-79.
  - (2) No ground sign structure may be placed in the right-of-way.
  - (3) Individual stores in a shopping center may not have separate ground sign structures. The shopping center as a whole may display signs in accordance with this section.
  - (4) Signs and sign structures shall meet all requirements of the state building code.
  - (5) Signs and sign structures shall be maintained at all times in a state of proper repair, with all braces, bolts, clips, guys, anchors supporting frames and fastening free from deterioration, insect infestation, rot, rust or loosening. All signs shall be kept neatly finished, with lettering intact, and if of a type which requires painting, free from visible peeling or chipping.
  - (6) Obsolete signs and their supporting structures shall be removed within 90 days after they have been made obsolete by reason of the activity, business, product, or usage which the sign identifies or advertises being abandoned at the location to which the sign refers. This provision does not refer to billboards, until the commercial use of the billboard for rent has ceased. An extension of the 90-day time limit for removal may be granted by the zoning administrator for reasonable cause.
  - (7) Illuminated signs shall be limited to those lighted from behind to silhouette letters and internally illuminated, and spotlighted signs. All illuminated and spotlighted signs shall be placed so as to prevent the light rays, illumination or glare from being cast directly on any building or on traffic.
  - (8) Strings of light bulbs used in connection with commercial premises for commercial purposes shall be limited to white, yellow, or bug repellant bulbs and shall not cause glare on traffic or adjoining premises.
  - (9) Sign area measurement.
    - a. Sign surface area measurement.
      - 1. The surface area of a sign shall be measured by including the entire area within a single, continuous, rectangular perimeter.
      - 2. Enclose the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.
      - 3. Do not include any supporting framework or bracing that is clearly incidental to the display itself.

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- b. Signs consisting of multiple elements. If the sign consists of multiple elements, all of the area, including that area between elements shall be included in the computation of the sign area.
  - c. Double-faced signs.
    - 1. The sign surface area of a double-faced, back-to-back sign with identical words on both sides shall be regarded and calculated as one sign.
    - 2. A double-faced sign with an angle shall be regarded and calculated as two signs.
- (10) Sign height computation. The vertical distance measured from the adjacent street grade or from the ground on which it rests, whichever allows the sign the greatest height, to the top of the sign.

(Ord. of 4-10-2006, §§ 502(intro.), 502.1)

### **Sec. 26-165. Prohibited signs.**

The following types of signs are expressly prohibited:

- (1) Signs with moving, revolving or rotating parts, or any sign which moves or gives an illusion of movement, except for time and temperature units and traditional barber poles shall be prohibited in all districts.
- (2) Signs with lights or illumination which flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except for time and temperature units.
- (3) Signs which obstruct the view of or could be confused with any authorized traffic sign, signal or device or make use of the words "stop," "look," "danger," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
- (4) Signs which obstruct openings required to be left uncovered or unobstructed by building codes, the housing code or other laws relating to buildings.
- (5) Snipe signs. (See definition in section 26-46.)

(Ord. of 4-10-2006, § 502.2)

### **Sec. 26-166. Off-site advertising signs (billboards).**

Off-site advertising signs (billboards) shall be permitted only as a special use in the GB, IC, LI and HI districts. The general conditions for special uses in section 26-325 are not applicable to off-site advertising signs, rather the conditions of this section shall be used by the board of commissioners in hearing applications for off-site advertising signs:

- (1) The property on which the sign is to be located must be adjacent to an interstate or federal aid primary highway.
- (2) The sign must be located within 660 feet of the edge of the right-of way of such highway.
- (3) The sign shall comply with all regulations of the state department of transportation, and with state statutes.
- (4) No two such structures shall be placed less than 1,000 feet apart.
- (5) Only one sign face per structure shall be permitted.
- (6) The sign will be compatible with the general neighborhood in which it is located and will not have a detrimental effect on adjoining properties.

(Ord. of 4-10-2006, § 502.3)

**Sec. 26-167. Nonconforming signs.**

Signs in existence prior to the adoption of the regulations from which this sign ordinance is derived and that do not conform to the provisions of this zoning code are declared nonconforming signs. The policy of the town is that the eventual elimination of nonconforming signs is just as important to the health, safety, welfare, and appearance of the town as is the prohibition of new signs that would violate this zoning ordinance.

Nonconforming signs may be continued under the following conditions:

- (1) Were erected prior to adoption of the various sign regulations from which this section derives, and with which they are in violation.
- (2) Shall not be relocated, modified or expanded where it increases their degree of nonconformity
- (3) Nonconforming signs which advertises a business no longer conducted or closed where such sign is located shall be terminated within 180 days. Termination of the nonconformity shall consist of removal of the sign. If the former business owner is unable to remove such sign, it shall be the responsibility of the property owner.
- (4) When removed for other than normal maintenance may be not erected again, nor may such a sign be replaced with another nonconforming sign. Normal maintenance may include, but is not limited to fixing, maintaining, and panel change out that does not increase the nonconformity.

(Ord. of 4-10-2006, § 502.4; Ord. of 2-6-2017(2))

**Sec. 26-168. Permitted signs.**

The following sign types shall be permitted in accordance with table 502.5:

TABLE 502.5. PERMITTED SIGNS

Sign Type	Dimensions		District Permitted	Permit Required	Special Requirements
	Maximum Area (in sq. ft.)	Maximum Height (in ft.)			
Advertising, off-site (billboards)	384 for U.S. 64; 32 for N.C. 581, U.S. 64-A	30	GB, IC, LI, HI	Special Use	See section 26-166
Agricultural, advertising products produced on premises	32	8	RA, LI, HI	Yes	
Awning, silk-screened or sewn on front of awning	NA	NA	CB, GB, IC, LI, HI	Yes	
Bulletin board, church or public	20	8	All districts	Yes	
Canopy signs (may also be placed on	4		CB, GC, IC, LI, HI	Yes	Sec. 26-169(a)

nonraising marquees)					
Central Business District signs					
Information kiosk and directory sign			CB		Sec. 26-169(b)
Sandwich board			CB		Sec. 26-169(c)
Directional signs containing no advertising matter					
Traffic, safety, utility warning,	N/A	N/A	All districts	No	
Pedestrian, public	N/A	N/A	All districts	No	
Directional (off-site) to churches, meeting halls, civic clubs	12	6	All districts	Yes	
Development entrance signs	32	8	All districts	Yes	Sec. 26-169(d)
No trespassing	4	N/A	All districts	No	
Flags, emblems, insignia			All districts	No	Sec. 26-169(e)
Ground signs	150	25	GB, IC, LI, HI	Yes	Sec. 26-169(f)
	40	12	CB	Yes	Sec. 26-169(f)
Home occupation (See professional announcement)					
House numbers	4	N/A	All districts	No	Sec. 26-169(g)
Identification signs (attached)		N/A	All districts	No	Sec. 26-169(h)
Professional announcement signs	4	N/A	All districts	No	Sec. 26-169(i)
Projecting signs	3	N/A	CB, GB, IC, LI, HI	Yes	Sec. 26-169(j)
Religious symbols at formal places of worship		N/A	All districts	No	
Roof signs (See Wall signs)					
Temporary signs					
Construction site placard	32	12	LI, HI	Yes	Sec. 26-169(k)
	4	6	CB, GB, IC		
Directional to garage sales and similar	4	N/A	All districts	No	Sec. 26-169(l)



events in residential area					
Pennants, banners and streamers			CB, GB, IC, LI, HI	Yes	Sec. 26-169(m)
Political signs	4	N/A	All districts	No	Sec. 26-169(n)
Portable signs	32	10	GB, IC, LI, HI	Yes	Sec. 26-169(o)
Real estate signs	6	4	All districts	No	Sec. 26-169(p)
	32	8	R-MF, CB, GB, IC, LI, HI	No	Sec. 26-169(p)
Temporary signs relating to farm auctions, agricultural production sales, annual charitable civic or fraternal events, excluding portable commercial signs	20 off-site; 32 on-site		All districts	No	Sec. 26-169(q)
Vending machine signs			Permitted use in all districts	No	Sec. 26-169(r)
Wall or roof signs	1.25 sq. ft. of sign area per running foot of building frontage		CB, GB, IC, LI, HI	Yes	Sec. 26-169(s)
Window signs			CB, GB, IC, LI, HI	No	

(Ord. of 4-10-2006, § 502.5(A))

**Sec. 26-169. Special sign requirements.**

- (a) *Canopy signs.* Canopy signs may be used for identification only. One is allowed per establishment entranceway. Bottom of sign must be a minimum of seven feet above sidewalk level. Minimum height may be greater over a public right-of-way if required by town regulations.
- (b) *Information kiosk and directory signs (public).* Off-premises public sign kiosks or directory signs display a directory of businesses, uses, or attractions and may be placed within the public right-of-way, provided that the sign kiosk or directory sign is erected and maintained by the town or state or an agent of such.
  - (1) The sign kiosk or directory sign shall serve to direct the public to a single development site or contiguous development sites.
  - (2) Maximum size shall be four feet wide and eight feet tall for freestanding kiosks. Wall mounted directory signs may not exceed four feet wide by six feet high.

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- (3) The property on which the sign kiosk or directory sign is located does not contain another kiosk or directory sign.
  - (4) The sign kiosk or directory sign does not obstruct the clear sight triangle or in any other way interfere with the safe passage of vehicles, pedestrians, and bicyclists on, off of, or along public streets, sidewalks, or bike paths.
- (c) *Sandwich board sign.* A sign consisting of two panels joined together at the top and configured in the shape of an inverted "V" so that the bottom of the sign rests upon or near the ground and meets the following conditions below:
- (1) A total of one sign shall be allowed per downtown business.
  - (2) The sign shall be located within four feet of the main building entrance to the business and its location shall not interfere with pedestrian or vehicular circulation.
  - (3) The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign's lettering should be professionally painted or applied; a "yard sales" or "graffiti" look with hand painted or paint stenciled letters is not acceptable; however, chalkboard signs shall be permitted. The written message of the sign should be limited to the nature of the business. Design of the sign shall be approved by the zoning administrator.
  - (4) Sign shall be kept in good repair and presentable at all times.
  - (5) Maximum size: 24 inches wide by 36 inches high.
- (d) *Development entrance signs.* Development entrance signs include entrance or monument type signs to subdivisions, neighborhoods, public, commercial, industrial, institutional establishments and manufactured home parks. No more than two per entrance are allowed. Minimum height requirement includes sign and any support pillars.
- (e) *Flags, pennant, or insignia.*
- (1) The flag, pennant or insignia of any nation or organization of nations, state, country, city, religious, civic, or fraternal organizational or educational institution, is allowed without a permit when not used in connection with a commercial promotion, or as an advertising device or as an integral part of another sign.
  - (2) In RA, R-15, R-8, and R-MF and R-MH districts, wall and projecting insignia may not exceed ten square feet in area, nor may they project more than nine feet from wall at farthest point.
  - (3) In business and industrial districts, insignia may be placed on signs permitted in those districts.
  - (4) In any district, flags or pennants shall not exceed 15 square feet or, if on a pole, one-fourth height of pole, whichever gives the flag the greater permitted area.
- (f) *Ground signs.*
- (1) No more than one per street frontage containing entrance to use.
  - (2) May be used only for identification or onsite advertising.
  - (3) Must be at least 30 feet from any other ground sign.
  - (4) Must meet vision clearance requirements of section 26-79.
  - (5) The board of commissioners may grant a special use permit for a higher sign on property adjoining U.S. Highway 64 according to conditions in section 26-166.
  - (6) Properties abutting U.S. Highway 64 may have one additional ground sign oriented to U.S. 64 up to a maximum of 50 feet in height.
- (g) *House numbers.* House numbers may contain no advertising matter.

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- (h) *Identification signs, attached.* Attached identification signs include memorial signs, tablets, name of building and date of construction. The sign must be cut into a masonry surface or cast of metal and affixed flat against a surface.
  - (i) *Professional announcement.* This category includes signs for home occupations. No more than one sign per establishment shall be allowed. Sign may not be illuminated and must be compatible with the neighborhood.
  - (j) *Projecting signs.* The sign may extend no more than three feet from the wall at the farthest point. One such sign is allowed per face on the street, or two per establishment, whichever is less. Such sign may be hung on corner of building but shall count against the maximum allowed above.
  - (k) *Construction placards.* Construction placards must be removed when construction has been completed.
  - (l) *Temporary event directional signs.* Temporary event directional signs include garage sales in residential districts. Signs must be posted no more than 24 hours before sale and removed within 24 hours after sale. Portable commercial signs are prohibited for this use.
  - (m) *Pennants, banners and streamers with advertising matter or logos.* These types of signs are allowed as a temporary use only for the opening of a new business and may remain for no more than four weeks. Acceptable materials are vinyl or cloth only. Portable commercial signs are prohibited for this use.
  - (n) *Political signs.* Political signs must be removed within 15 days after the last election to which they pertain.
  - (o) *Portable signs (includes signs mounted on a vehicle or trailer, or a trailer type device).* A non-renewable permit from the zoning administrator is required. Signs shall be permitted for no more than ten days. No more than one sign per establishment per street frontage shall be allowed. The same establishment may not have a temporary sign again for 90 days after removal of such sign. The sign shall not have colored or flashing lights which cause glare on traffic or adjacent properties, and shall not be located on the public right-of-way nor obstruct vision clearance as indicated in section 26-79.
  - (p) *Real estate signs.* Signs must be removed ten days after property is sold.
  - (q) *Temporary signs (auctions, agricultural produce sales, charitable events).*
    - (1) Off-site: No more than one sign per lot. Sign may remain for no more than 30 days total.
    - (2) On-site: No more than three signs per lot. Sign may remain for no more than 30 days total.
  - (r) *Vending machine signs.* Vending machine signs include signs painted or mounted on a vending machine related to the products on the machine; bank machine; book depository signs which instruct customers or patrons; and signs attached to gasoline fuel pumps, oil and tire racks.
  - (s) *Wall signs.*
    - (1) Wall signs must be mounted on areas of wall free of windows, doors, or other major architectural detail. Only one wall, roof, or projecting sign per establishment per street frontage is permitted other than those specifically mentioned elsewhere in this article.
    - (2) Wall signs may be used only for identification or on-site advertising.
    - (3) Signs shall not project over the roof line of the building to which they are attached.

(Ord. of 4-10-2006, § 502.5(B))

**Secs. 26-170—26-191. Reserved.**

## ***ARTICLE VI. LANDSCAPING***

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## Sec. 26-192. Purpose and scope.

This article is intended to establish minimum standards for the design of landscapes for uses other than single-family and two-family residential so as to improve the community aesthetically, economically and environmentally.

(Ord. of 4-10-2006, § 503.1)

## Sec. 26-193. Definitions.

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

*Caliper* means a standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and 12 inches above the ground for larger sizes.

*Critical root zone (CRZ)* means a circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

*Deciduous* means those plants that annually lose their leaves.

*Diameter-at-breast-height (DBH)* means the tree trunk diameter measured in inches at a height of 4.5 feet above the ground.

*Drip line* means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

*Evergreen* means those plants that retain foliage throughout the year.

*Evergreen screen* means a plant growing to over 20 feet in height at maturity that retains foliage year round that is planted to provide a dense vegetative screen for purposes of visual mitigation between zoning districts.

*Ground cover* means a prostrate plant growing less than two feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides.

*Landscaping* means the process or product of site development including grading, installation of plant materials, and seeding of turf or ground cover.

*Parking lot plantings* means planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

*Planting area* means the area prepared for the purpose of accommodating the planting of trees, shrubs, and ground covers.

*Planting yard* means the required installation of landscaping and screening materials between zoning districts and sometimes individual uses. The following are types of planting yards:

- (1) *Type A planting yard* means a planting strip having minimum width of 8 feet which is intended to separate uses, provide vegetation in densely developed areas, and enhance the appearance of individual properties.
- (2) *Type B planting yard* means a medium density screen having a minimum width of 15 feet which is intended to partially block visual contact between zoning classifications and create spatial separation.

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- (3) *Type C planting yard* means a medium density screen having a minimum width of 20 feet which is intended to substantially block visual contact between zoning classifications and create spatial separation. a type C planting yard reduces lighting and noise that would otherwise intrude upon adjacent zoning classifications.
  - (4) *Type D planting yard* means a very high density screen having a minimum width of 30 feet which is intended to substantially block visual contact between zoning classifications and create spatial separation. A type D planting yard reduces lighting and noise that would otherwise intrude upon adjacent zoning classification.

*Shrub, large*, means an upright plant growing ten feet to 20 feet in height at maturity that is planted for ornamental or screening purposes.

*Shrub, medium*, means a plant growing five feet to ten feet in height at maturity that is planted for ornamental or screening purposes.

*Shrub, small*, means a plant growing to less than five feet in height at maturity that is planted for ornamental purposes.

*Street tree* means a tree planted along the street behind the right-of-way.

*Street yard* means a planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of the development by providing a pleasing view from the road.

*Tree, ornamental*, means a small to medium tree, growing 15 feet to 40 feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

*Tree, shade*, means a large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

(Ord. of 4-10-2006, § 503.2)

## **Sec. 26-194. Applicability**

The provisions of this article shall apply to all uses other than single-family residential.

(Ord. of 4-10-2006, § 503.3)

## **Sec. 26-195. Planting yards.**

- (a) Planting yards are intended to separate different land uses and zoning districts from each other and are intended to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs and unsightly buildings or parking areas. The planting yard types are determined by four different levels based on zoning districts. The zoning districts have been divided into the following four levels:

- (1) *Level 1*. Residential, single-family.
  - a. RA Residential-Agricultural, excluding duplex.
  - b. R-30 Single-Family Residential, excluding duplex.
  - c. R-15 Medium Density Single-Family, excluding duplex.
- (2) *Level 2*. Residential, duplex and multifamily.
  - a. RA, Residential-Agricultural, duplex only.
  - b. R-8, Single-Family Residential, duplex only.
  - c. R-MF, Residential Multifamily.

- d. R-MH, Mobile Home Residential.
- (3) *Level 3. Business.*
  - a. GB, General Business.
  - b. IC, Office and Institutional.
- (4) *Level 4. Manufacturing.*
  - a. LI, Light Industrial District.
  - b. HI, Heavy Industrial District.

(b) In the case of a group development, the outer boundaries shall be landscaped according to the requirements of table 503.2, planting yard landscaping in section 26-196(a) and table 503.3, street yard landscaping requirements in section 26-196(b)(4). The interior boundaries abutting out parcels within a group development must comply with the requirements of tables 503.2 and 503.3 at the time of their development.

(Ord. of 4-10-2006, § 503.4)

**Sec. 26-196. Planting yard charts.**

(a) Table 503.1 shows how the four different levels of zoning classification relate to one another to determine the type of planting yard that is required.

TABLE 503.1. PLANTING YARD CHART

		Least Intensive	⇒	⇒	Most Intensive
		Adjacent Zoning District Level			
Least Intensive	Proposed Level	1	2	3	4
↓	1	*	*	*	*
↓	2	C	A**	A	A
↓	3	C	B	A**	A
Most intensive	4	D	D	C	A**

\*No planting yard requirement.

\*\*Where like zoning abuts one another, the planting yard requirement for the type A yard shall be a minimum average width of eight feet, but at no time shall the width be less than four feet.

TABLE 503.2. PLANTING YARD LANDSCAPING

Yard Type	Minimum Width (in feet)	Shade Trees	Ornamental Trees	Shrubs	Required Points (per linear foot)
A	8	optional	1/50'	optional	0.4
B	15	1/75'	1/100'	optional	0.7
C	20	1/50'	1/75'	optional	0.9
D	30	1/50'	1/50'	optional	1.0

(b) Table 503.2 shows the planting requirements of the planting yard Types A through D. Each planting yard has a specified width, type of plant material and quantity of plant material that is required. The width and density of the planting yard increases as the difference in zoning classifications increase.

- (1) A wall or fence, a minimum of six feet in height (constructed of masonry or pressure-treated lumber), or densely planted vegetation a minimum of six feet in height that would provide a complete visual separation within three years of planting, may be used to reduce both the minimum width of the planting yards and the corresponding number of points per linear foot by 20 percent as follows:

Type of plant	Points
Shade tree	12
Ornamental tree	6
Large shrub	3
Medium shrub	2
Small shrub	1

- (2) In type B planting yards, ornamental trees may be substituted for shade trees at the rate of two ornamental trees for each required shade tree.
- (3) All trees in street yards shall be planted at least than four feet from any public right-of-way.
- (4) For the purpose of this section, building setbacks (as listed in section 26-71) shall supersede planting yard landscaping requirements.

TABLE 503.3. STREET YARD LANDSCAPING

	Minimum Width	Trees			Shrubs
		Shade	or	Ornamental	
Requirements	8'	1/35'	or	1/25'	Optional

TABLE 503.4 Planting Yards

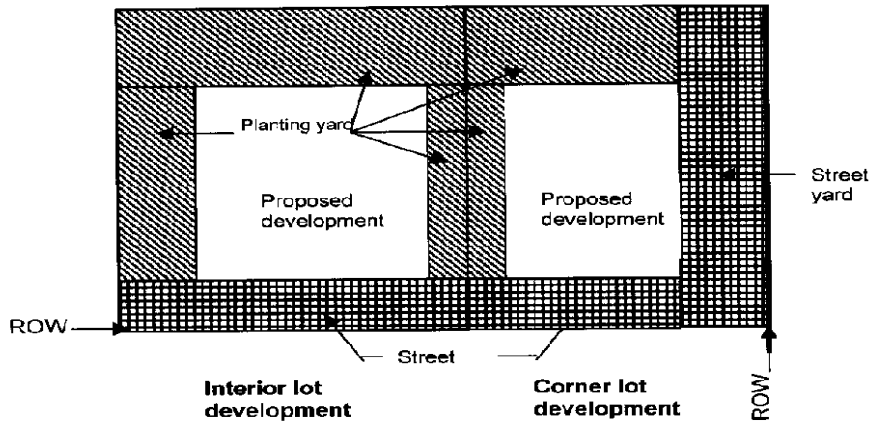
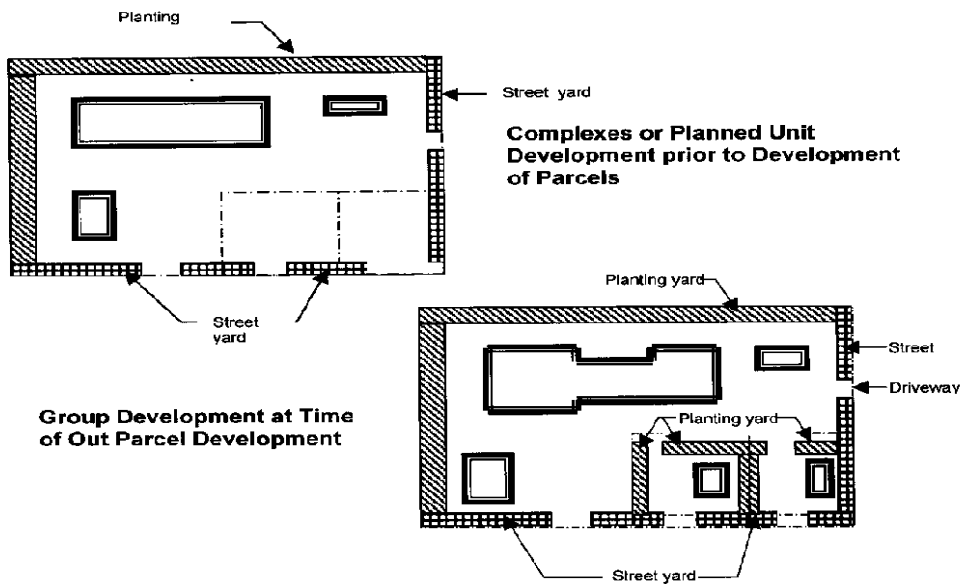


TABLE 503.5 Complexes or Planned Unit Developments



(Ord. of 4-10-2006, § 503.4)

**Sec. 26-197. Landscaping and design standards for street yards.**

A street yard consists of a planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.

- (1) Street yards shall be a minimum of eight feet wide.
- (2) Street yards shall contain one shade tree per 35 linear feet or one ornamental tree per 25 linear feet, except in the case of a conflict with utility lines. These trees shall be generally equally distributed along the street frontage, but they are not required to be at absolute equal intervals. This will allow for some flexibility in design while discouraging long intervals without trees. Shrubbery may be planted in clusters where trees are not practical; however, the requirements of table 503.3, street yard landscaping requirements in section 26-196(b)(4).



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- (3) Parking, merchandise display and off-street loading are prohibited in the street yard.
  - (4) Any tree or shrub planted within a sight triangle shall comply with section 26-79, visibility at intersections.

(Ord. of 4-10-2006, § 503.5)

### **Sec. 26-198. Standards for landscaping within parking lots.**

- (a) All new or expanded (to add 12 or more spaces) parking lots with 12 or more spaces shall comply with this section.
- (b) If an existing parking lot (paved or unpaved) is expanded or improved to add 12 or more spaces, it shall comply with the parking lot requirements of this article within the expanded or improved portion.
- (c) If a parking lot is expanded or developed, then the street yard, planting yard, and parking lot requirements shall be applicable.
- (d) In parking lots with 12 or more spaces, trees shall be planted at a rate of one shade tree or two ornamental trees for every 12 spaces or fraction thereof.
- (e) Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than 60 feet from a parking lot tree.
- (f) Trees required within the planting yards or street yards cannot be credited toward the parking lot requirements.
- (g) Planting areas within the parking lots shall provide a minimum of 81 square feet with a minimum inside dimension of nine feet and a minimum prepared depth of 18 inches.

(Ord. of 4-10-2006, § 503.6)

### **Sec. 26-199. Tree preservation and care during construction.**

- (a) Existing trees shall be preserved whenever feasible. Credits for tree preservation are offered when a tree preservation plan is submitted to the town's zoning administrator prior to grading the site. A tree preservation plan must show that there will be no disturbance in the critical root zone (CRZ). A disturbance is considered trenching, placing backfill in the CRZ, driving or parking equipment in the CRZ, and dumping of trash, oil, paint, or other materials detrimental to plant health in close proximity of the tree(s).
- (b) When selecting which trees to preserve, the following shall be considered:
  - (1) Existing and proposed grading;
  - (2) Age, condition, and type of tree; and
  - (3) Location of site improvements and utility connections.
- (c) Credit for existing trees within parking lots and planting yards will be given at the rate of 18 points per four inches in diameter at breast height (DBH) of existing plant material preserved. Minimum size requirement to qualify for tree preservation in four inches (DBH).
- (d) Should any tree designated for preservation in the tree preservation plan die at anytime after approval of the plan or issuance of a certificate of occupancy, the owner shall replace sufficient landscaping equal to the tree preservation credit within 180 days. In the event of a restricted site, the owner may request review by the zoning administrator. The replacement tree shall be a minimum of two inches in caliper for

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a shade tree and a minimum of six feet in height for an ornamental tree (six feet from the top of the root ball to the top of the tree) at the time of planting.

(Ord. of 4-10-2006, § 503.7)

### **Sec. 26-200. Landscape plan submittal requirements.**

In order for a plan to be reviewed, a site plan containing the following information must be submitted to the zoning administrator:

- (1) Site plan shall be drawn to scale and include a North arrow and necessary interpretive legends.
- (2) Property lines and zoning designation of adjacent properties.
- (3) Location of proposed buildings, parking areas with spaces delineated, paving and sidewalks.
- (4) Existing plant materials and areas to be left in natural state.
- (5) Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required.
- (6) Locations, size and names for all proposed plants.
- (7) Location and description of other landscape improvements, such as earth berms, walls, fences, sculptures, fountains, and paved areas.
- (8) Planting and installation details as necessary to ensure conformance with all required standards.
- (9) Location of overhead and underground utilities.
- (10) Landscape compliance summary table. This table shall list required planting yards by type, length, points required and plants to meet the points requirement. This table shall include the length of street yard and trees by type (shade or ornamental) to meet the tree planting standard. This table shall include the number of new parking spaces provided and the trees required and the trees proposed to meet parking lot landscape requirements.

(Ord. of 4-10-2006, § 503.8)

### **Sec. 26-201. Landscape standards and specifications.**

The following standards and specifications shall apply to landscaping:

- (1) The developer shall furnish and install all plant materials listed on the plan schedule.
- (2) Plant materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, which is published by the American Association of Nurserymen.
- (3) Plant materials must be from the recommended plant list or known to be hardy in USDA Plant Hardiness Zone 7. Plants included in the "plant types to discourage" list may not be used to meet the requirements of this article.
- (4) Shade trees must be a minimum of two inches in caliper. Ornamental trees must be a minimum of six feet in height at the time of planting (six feet from top of root ball to top of tree).
- (5) No tree may be planted in the sight triangle.
- (6) Do not use staking materials unless it is absolutely necessary. If staking is necessary, than the developer/property owner must remove the staking materials after one growing season.
- (7) Property owners shall ensure to the best of their knowledge and ability the survival and health of required trees in perpetuity.

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(Supp. No. 4)

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- (8) A temporary certificate of occupancy may be issued when extremes in weather or soil conditions are not favorable for landscaping.
  - (9) The developer shall ensure that all plant pits, vine pits, hedge trenches, and shrub beds are excavated as follows:
    - a. All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth of the ball to be above existing grade. Soil within the planting areas shall be free of rock, debris, inorganic compositions and chemical residues detrimental to plant life. Soil shall be compatible with the composition of the existing sub-soil and sufficiently blended to ensure adequate exchange of air and water between the planting area and the adjacent soil strata. Plants shall rest on well-compacted surface. The tree pit shall be a minimum of nine inches larger on every side than the ball of the tree.
    - b. If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least 18 inches in depth.
  - (10) Each tree or shrub shall be pruned in an appropriate manner, in accordance with accepted standard practice.
  - (11) All trenches and shrub beds shall be cultivated to the lines shown on the drawings. The areas around isolated plants shall be cultivated to the full diameter of the pit.
  - (12) Existing trees shall be preserved whenever possible. (See section 26-199.)
  - (13) All planting areas shall be mulched with a two-to-three-inch layer of bark or other similar material to cover the planting area.

(Ord. of 4-10-2006, § 503.9)

### **Sec. 26-202. Alternative methods of compliance.**

- (a) *Use of alternate plan, material, or methods.* Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography, or other physical conditions; or front lot configuration, utility easements, unified development design, or unusual site conditions.
- (b) *Approval of alternate plan.* The board of commissioners may approve an alternate plan which proposes different plant materials or methods provided that quality, effectiveness, durability, and performance are equivalent to that required by this article. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening, height, spread, and canopy of the planting at maturity.
- (c) *Appeal.* The decision of the board of commissioners regarding alternate methods of compliance may be appealed to the board of adjustment.

(Ord. of 4-10-2006, § 503.10)

### **Sec. 26-203. Plant substitution.**

Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting may be approved by the zoning administrator or his designee if the following are true:

- (1) There is no reduction in the quantity of plant material.
- (2) There is no significant change in size or location of plant materials.

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- (3) The new plants are of the same general category (i.e., shade tree, ornamental tree, or shrub) and have the same general design characteristics mature height, crown spread) as the materials being replaced.

(Ord. of 4-10-2006, § 503.11)

**Secs. 26-204—26-229. Reserved.**

***ARTICLE VII. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES***

**Sec. 26-230. Required.**

The following standards apply as applicable to uses designated as S, C or D in table 304.1, Table of permitted uses in section 26-70. These standards shall be required in addition to all other provisions of this chapter.

(Ord. of 4-10-2006, § 504(intro.))

**Sec. 26-231. Adult establishments.**

- (a) No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of the closest boundary line of any residential zoning district, or of any point on the closest property line of any church, school, day care, public park, residence or playground as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by the adult establishment.
- (b) No adult establishment shall be located within 1,000 feet (determined by a straight line and not street distance) of any other adult establishment as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by each.
- (c) No more than one adult establishment may be located within the same structure.

(Ord. of 4-10-2006, § 504.10)

**Sec. 26-231.1. Automotive repairs.**

- (a) A facility where general vehicle repair and service is conducted, including audio and alarm installation, custom accessories, bed-liner installation, glass repair or replacement, transmission, brake, muffler and tire shops, along with body and paint shops.
- (b) In the central business (CB) district, a maximum of four service bay doors no more than ten feet in width each are permitted on two sides of the building. No parking in front of bay doors while occupied. The lot shall be clear of vehicles in front of bay doors to allow for maneuvering vehicles in and out to be serviced.
- (c) Minimum number of parking spaces per section 26-139. Each parking space shall be marked.
  - (1) Angled, perpendicular, or parallel spaces shall be between 16 and 18 feet in length and nine feet in width.
  - (2) If additional parking is required, may be allowed on separate, but adjoining parcel to the primary location of the automotive repair business.
    - a. The additional parking on adjoining parcel shall be screened by a minimum six-foot high solid fence or masonry wall around the entire perimeter of the parked vehicles. No gate or part of

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the fence shall slide or swing into the roadway. If any vehicles intended for current or future work exceeds the height of the fence, the business shall install a solid fence or masonry wall to adequately obstruct the view of any parked vehicles from any public right-of-way (ROW).

- b. Landscaping requirements to place medium to large (two feet to five feet) shrubs and/or ornamental trees every 15 feet in width along the perimeter of the fence or wall adjoining residential lots and street frontage to create a buffer between zoning districts and to minimize potential nuisances.
- (3) Overflow parking is defined as parking spaces exceeding the calculated minimum number of parking spaces per section 26-139. Overflow shall be screened by a minimum six-foot high solid fence or screened fence around the entire perimeter of the overflow parking. No gate or part of the fence shall slide or swing into the roadway. If any vehicles intended for current or future work exceeds the height of the fence, the business shall install a fence to adequately obstruct the view of any parked vehicles from any public right-of-way (ROW). For any commercial or industrial sized vehicles, business may seek relief in the height of the fence at the discretion of the zoning administrator.
- (d) No vehicles associated with the business including, but not limited to customers and vendors that are to be serviced shall be parked on the street or any public ROW. The ROW within the automotive repair business' driveway and parking lot shall be marked.
  - (e) There shall be no dismantling of vehicles for salvage within the automotive repairs business.
  - (f) The storage of impounded vehicles is not permitted.
  - (g) Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
  - (h) No outside speaker system is permitted.

(Res. of 8-3-2020)

### **Sec. 26-232. Boardinghouses.**

- (a) The boardinghouse shall be the permanent residence of the owner of the establishment.
- (b) In any residential zoning district, parking shall only be permitted in the front yard on a designated driveway.
- (c) Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.

(Ord. of 4-10-2006, § 504.15)

### **Sec. 26-233. Commercial campground.**

- (a) Campgrounds and RV parks are intended for seasonal occupancy only and shall not be used as a permanent residence.
- (b) The use shall meet any applicable county health department requirements.

(Ord. of 4-10-2006, § 504.20)

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### **Sec. 26-234. Cemeteries.**

Cemeteries shall be subject to chapter 18, article VI, division 3 of this Code and all applicable county health department regulations and state laws.

(Ord. of 4-10-2006, § 504.25)

### **Sec. 26-235. Churches, temples, synagogues.**

Institutions with a seating capacity in excess of 600 persons shall be located with direct access to a major or minor collector street as identified on the most recent functional classification map published by the state department of transportation.

(Ord. of 4-10-2006, § 504.30)

### **Sec. 26-236. Civic and fraternal organizations.**

- (a) The use shall be located where there shall be no disturbance to residences and shall be adequately designed for its size and purpose.
- (b) Noise from a public address system shall not be heard beyond the property where the use is located.
- (c) The use shall have access only on a major or minor collector street as identified on the most recent functional classification map published by the state department of transportation.

(Ord. of 4-10-2006, § 504.35)

### **Sec. 26-237. Day care center.**

- (a) Outdoor play and/or recreation areas shall be located behind the front building line in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten feet shall be observed. On corner or through lots, a minimum 20-foot setback as measured from the abutting street right-of-way line shall be required.
- (b) All outdoor play and recreation areas shall be surrounded by a fence or wall at least four feet in height.
- (c) At least one off-street passenger loading/unloading space separate from required parking shall be provided for each 20 people enrolled. Adequate on-site turnaround area shall be provided for all loading/unloading and parking spaces.

(Ord. of 4-10-2006, § 504.40)

### **Sec. 26-238. Day care home.**

- (a) A home day care must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling, all building and lot standards for residential dwellings shall be maintained.
- (b) No outdoor play shall be permitted after dark and care shall not be provided on a 24-hour basis.
- (c) The facility shall be staffed by persons residing in the dwelling in which the day care is located except that up to one non-resident may report to work at a daycare home.

(Ord. of 4-10-2006, § 504.45)

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**Sec. 26-239. Permitted dwellings in CB district.<sup>2</sup>**

- (a) A special use permit must be granted and shall be based upon compliance with all provisions of this section. Should any of these provisions not be met or be violated, the special use permit shall be revoked.
- (b) A residential use of an existing commercial structure shall only be considered on the second floor of a two-story building which has a separate exterior entrance. For two-story buildings without a separate entrance, the residential use shall be allowed only as an accessory use by the owner/operator incidental to a commercial use in the same structure unless, as part of the special use permit application, proposed construction plans indicate that a new separate exterior entrance will be constructed for access to the second floor apartments.
- (c) At least 500 square feet of floor area, centrally conditioned with air, per dwelling unit shall be provided.
- (d) All applicable building, housing and fire codes shall be met.
- (e) Appropriate arrangements shall be made for off-street parking. Parking locations must be identified and approved by the Town of Spring Hope as part of the building/site plans submitted to obtain the special use permit.
- (f) The dwelling shall be maintained at all times in good condition. At no time shall the dwelling unit and its occupants create nuisance or safety hazards.
- (g) The residential use shall not create traffic or other problems for adjacent uses by other downtown business or adversely affect the commercial character of the district.
- (h) Allowing the residential use shall at no time allow destruction of historically significant buildings or diminish the historic character architectural elements of the exterior of any building.
- (i) Residential space in existing single-story commercial buildings shall be permitted for sole use by the owner/operator of the business provided that such space is located in the rear of the building and that no more than 50 percent of total floor area be used for residential and all other conditions of this section shall be met.

(Ord. of 4-10-2006, § 504.50; Res. of 11-2-2015)

**Sec. 26-240. Electronic gaming operations.**

- (a) The hours of operation of the establishment must not be any earlier than 9:00 a.m. nor any later than 11:00 p.m., Monday through Saturday.
- (b) No alcohol beverages and no smoking shall be permitted within the establishment.
- (c) The establishment must not be located within 1,000 feet from any church or place of worship.
- (d) The establishment must not be located within 100 feet from any residence, measuring the distance off from the edge/corner of the building from one another.
- (e) Off-street parking must be paved and must be one space for each two computers, plus one handicapped parking space.
- (f) The fee for each machine will be \$300.00 annually, set by the board of commissioners.

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<sup>2</sup>Editor's note(s)—Resolution of 11-2-2015, repealed the former § 26-239, and enacted a new § 26-239 as set out herein. The former § 26-239 pertained to similar subject matter and derived from Ord. of 4-10-2006, § 504.50.

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- (g) The establishment must not be located within 1,000 feet from any other electronic gaming operation.
  - (h) No establishment shall have more than 20 electronic gaming machines/computers.
  - (i) Windows shall not be tinted, nor shall there be any interior obstructions, such as curtains, screens, blinds, partitions, or signs, placed to prevent a clear and unobstructed view of the interior from the street.
  - (j) Persons under the age of 18 are prohibited within the premises.
  - (k) Lighting. No interior or exterior lighting shall be used to frame windows, doors, or along the building itself, whether in part or in whole. Exterior lighting must encompass the entire parking lot.
  - (l) Must provide at least one security officer clearly marked as security, either an employee or hired from third party that provides certified armed security.
  - (m) Must have at a minimum two cameras outside covering the entire parking lot.
  - (n) Must have an exterior camera at every entry and exit of the business, including an interior camera at the main entrance.
  - (o) All those entering the establishment shall show a federal or state form of identification to the security officer with all facial coverings removed to confirm identification.
  - (p) Must provide an enclosed secondary area at entrance with secondary door that will only be opened after proper identification and video/photo of patron is confirmed and documented.
  - (q) Must provide accessibility at any time for law enforcement to conduct a walk through during business hours confirming all equipment is legal and being operated under all state and local laws.
- (Ord. of 4-10-2006, § 504.52; Res. of 3-8-2010, Amd. No. 3; Ord. of 3-4-2019(1); Ord. of 5-3-2021)

#### **Sec. 26-240.1. Electronic product promotions sweepstake kiosk.**

Electronic product promotions sweepstake kiosk means any electronic video machines which, upon the insertion of payment, permits a person to play a game of chance or skill for a product from a sponsor and offers or awards a prize.

(Ord. of 7-6-2021)

#### **Sec. 26-241. Entertainment, commercial, indoor.**

Operating hours shall less than or equal to 10:00 a.m. to 12:00 midnight Monday thru Saturday, and 1:00 p.m. to midnight on Sunday.

(Ord. of 4-10-2006, § 504.55)

#### **Sec. 26-242. Entertainment, commercial, outdoor.**

Lights from the use shall be designed so that they will not produce glare which will shine on any adjacent residential structures. Noise emanating from the use shall not exceed ambient noise levels in the surrounding area at a distance of more than one hundred feet from any point of the property containing the use.

(Ord. of 4-10-2006, § 504.60)



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## Sec. 26-243. Family care homes.

Must meet the requirements of G.S. 168-21. No home may be located within a one-half-mile radius of an existing family care home.

(Ord. of 4-10-2006, § 504.65)

## Sec. 26-243.5. Food trucks.

Standards:

- (A) *Applicability.* These regulations apply to all instances of food trucks operating or being stored in the town, except that food trucks participating in a town-sponsored event, a fair or festival operated by a non-profit organization or otherwise permitted temporary or special event are considered to be part of that event for zoning classification purposes, and are exempt from these regulations. They would have to comply with any conditions of the event permit.
- (B) *Location.* Food truck operation is allowed with certain developmental standards in the CB, GB, LI, and HI districts, as well as on any street location having CB, GB, LI, and HI zoning on both sides of the street. Food trucks are also allowed on town park property with permission of the town and shall comply with these regulations.

Overnight storage of food trucks shall be on private property and shall conform to zoning regulations governing storage of a commercial vehicle.

- (C) *Performance standards.*
  - (1) *Time limit.* Food trucks shall operate in the permitted zoning districts from the hours of 7:00 a.m. to 9:00 p.m., except in a town park by permission of the town. A location is a single place with a radius of 150 feet.
  - (2) *Sound and lighting.* No flashing lighting, music, amplified sound, or other noise designed to attract attention is permitted in connection with the operation of a food truck. Any generators on the food trucks shall be low noise generators.
  - (3) *No sales to motor vehicles.* Food truck vendors may not solicit or conduct business from the food truck with persons in motor vehicles.
  - (4) *Clearance.* The food truck shall not be operated so as to block, obstruct, or restrict the free passage of vehicles or pedestrians in the lawful use of the sidewalks or streets or access to abutting property.
  - (5) *Trash and objects.* The food truck shall not discharge items from the operation onto any public or private property, and shall dispose of waste into a dedicated waste receptacle belonging to the truck. The operator shall pick up all refuse generated by the food truck before the unit is moved.
  - (6) *On streets.* Every food truck shall comply with parking and standing regulations and vehicle operation laws on public streets. The vending unit shall not be positioned in areas where it may impede or inconvenience the public or create a traffic hazard.
  - (7) *On private or public property other than streets.* Every food truck operating on private or public property other than streets shall obtain the written permission of the owner or lessee of the property. Each food truck operator must submit a site plan.
  - (8) *Limits on number.* Food trucks shall be located at least 150 feet apart from any other food truck.

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- (9) *Licensing.* Every food truck in operation shall have obtained applicable county health department licensing and shall meet county health department regulations.
  - (10) Food truck operators must provide proof of general liability insurance in the amount of at least \$1,000,000.00 covering the operation of the food truck.
  - (11) A zoning compliance permit fee of \$25.00 is required.
  - (12) Each permit is for a 12-month period and is renewable with the resubmission of another application.

(Ord. of 8-3-2015)

### **Sec. 26-243.6. Farmer's market.**

A market open to the public where all products sold are farm products, value-added farm products, or a food or beverage product, and where the booths are operated by producers. (Note: A farmers market differs from a produce stand in that there may be more than one seller per parcel of land.)

- (a) Minimum parking spaces: One per 200 s.f. of sales area of GFA of structure(s) or area(s) to be used for said use, unless otherwise indicated. On street and/or shared parking allowed for calculation.
- (b) No booths, stalls, display areas or sanitary facilities shall be placed or maintained within any required setback area.
- (c) All items shall be stored indoors when the flea market is not open for business or removed from the site at the close of each business day including but not limited to tents.
- (d) Sanitary facilities shall be provided on-site with at least one handicapped-accessible facility unless sanitary facilities access can be provided indoors within an enclosed building.
- (e) Hours of operations permitted Monday—Saturday from 6:00 a.m. to 9:00 p.m. Sunday hours permitted from 2:00 p.m. to 6:00 p.m.

(Ord. of 7-11-2016(1))

### **Sec. 26-243.7 Flea market, indoor.**

A retail sales use where more than one vendor whether professional or nonprofessional displays for sale, trade or barter any goods, regardless whether they are new or used within a fully enclosed building.

- (a) Minimum parking spaces: One per 200 s.f. of sales area of Gross Floor Area (GFA) of structure(s) or area(s) to be used for said use, unless otherwise indicated. On street and/or shared parking allowed for calculation.
- (b) All items shall be stored indoors when the flea market is not open for business or removed from the site at the close of each business day.
- (c) Sanitary facilities shall be provided within the facility including handicapped-accessibility.

(Ord. of 7-11-2016(1))

### **Sec. 26-243.8 Flea market, outdoor.**

An open area in which stalls or sales areas are set aside and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, handcrafted, homegrown, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals

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who are generally engaged in retail trade. This definition shall not be construed to include sidewalk sales by retail merchants, fruit or produce stands, bake sales, or garage, yard sales held in conjunction with an incidental to residential uses or sponsored and conducted by religious, civic or charitable organizations on their own property. The term "flea market" also includes an occasional or periodic sales activity held within a building, structure or open area where individuals or groups of individual sellers offer items, new or used, for sale to the public, not to include private yard or garage sales, and occasional sales.

- (a) Minimum parking spaces: One per 200 s.f. of sales area of GFA of structure(s) or area(s) to be used for said use, unless otherwise indicated. On street and/or shared parking allowed for calculation.
- (b) No booths, stalls, display areas or sanitary facilities shall be placed or maintained within any required setback area.
- (c) All items shall be stored indoors when the flea market is not open for business or removed from the site at the close of each business day including but not limited to tents.
- (d) Sanitary facilities shall be provided on-site with at least one handicapped-accessible facility unless sanitary facilities access can be provided indoors within an enclosed building.
- (e) Hours of operations permitted Monday - Saturday from 6:00 a.m. to 9:00 p.m. Sunday hours permitted from 2:00 p.m. to 6:00 p.m.

(Ord. of 7-11-2016(1))

#### **Sec. 26-244. Fuel dealers; bulk storage of petroleum products.**

- (a) All storage tanks and loading facilities will be located at least 100 feet from any exterior property line.
- (b) Vehicle access to the use shall be provided by way of a major or minor thoroughfare, or a commercial street directly intersecting a thoroughfare.
- (c) The fire chief, and where applicable, the county health department shall have an opportunity to review the application. The applicant shall provide all needed information to enable the appropriate officials to determine the safety of the storage measures.

(Ord. of 4-10-2006, § 504.70)

#### **Sec. 26-245. General retail uses greater than 5,000 square feet.**

- (a) Accessory shipping containers used for the temporary storage of merchandise must be placed in the rear yard of the use and shall not be visible from the principal entrance.
- (b) Accessory outdoor sales area. All merchandise for sale or rent shall be contained within the building envelope or under cover of attached canopies except:
  - (1) Sidewalk sales or other organized temporary promotional events not to exceed one event per month.
  - (2) Lawn and garden centers, home improvement or department stores may permanently display plant materials, lawn and garden supplies, outdoor furniture or similar merchandise. All sales areas shall be contained within a designated area immediately adjacent to the primary retail building. Any permanent sales areas shall be designated on the required site plan. Sales areas shall not encroach upon required parking areas and must be designed so as not to impede the passage of vehicles within required parking areas. All tents or detached canopies must be securely tied down and maintained to prevent a hazardous condition.

(Ord. of 4-10-2006, § 504.75)

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**Sec. 26-246. Manufacturing uses.**

- (a) The following are manufacturing uses:
  - (1) Chemicals.
  - (2) Fertilizer plants.
  - (3) Food and beverage.
  - (4) Leather and leather products.
- (b) The use shall be located at least 1,000 feet from any residentially-zoned land and the planning board will take into consideration the potential for odors, dust and noise in deciding whether to approve the use.

(Ord. of 4-10-2006, § 504.80)

**Sec. 26-247. Manufactured homes on individual lots, class A.**

- (a) Class A manufactured homes shall be allowed in RA and R-MH zones when all lot dimensional requirements and the additional requirements as listed below are met:
  - (1) Have a length not exceeding three times its width.
  - (2) Minimum size of 1,100 square feet.
  - (3) Roof is finished with either asphalt or fiberglass type shingles that are commonly used in standard residential construction.
  - (4) Exterior siding consisting of vinyl or aluminum horizontal lap siding, wood or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
  - (5) Continuous, permanent brick foundation or brick curtain wall, unpierced except for required ventilation and access.
  - (6) Tongue, axles, transporting lights, and removable towing apparatus are removed subsequent to final placement.
  - (7) 6-inch overhang, which may include rain gutters.
  - (8) Roofs to have minimum 4/12 pitch.
  - (9) A permanent porch shall be placed on the front of each home which measures at least six feet in width and a minimum of 24 square feet in area.
  - (10) Be listed as real property (must own land as well as the home).
  - (11) Landscaping and shrubbery required.
- (b) A zoning compliance certificate must be issued by the zoning administrator indicating that all town requirements are met prior to final inspection and approval by county building inspections to allow occupancy.

(Ord. of 4-10-2006, § 504.85)

**Sec. 26-248. Manufactured home, class B.**

Class B manufactured homes shall be located only within an approved manufactured home park in the RMH district, and shall meet the following standards:

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- (1) Skirting or a curtain wall, unpierced except for required ventilation and access, is installed under the manufactured home and may consist of brick, masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation; and
  - (2) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home are installed or constructed in accordance with the standards set by the state department of insurance and attached firmly to the primary structure and anchored securely to the ground.

(Ord. of 4-10-2006, § 504.90)

## **Sec. 26-249. Manufactured home park.**

### *(a) General requirements.*

- (1) Minimum number of manufactured home spaces: At least three spaces.
- (2) Manufactured homes shall not be sold within a manufactured home park, except that an individual manufactured home owner shall be allowed to sell the manufactured home in which he resides.
- (3) The transfer of a deed to a manufactured home space or spaces either by sale or by any other manner shall be prohibited within a manufactured home park as long as the manufactured home park is in operation.
- (4) Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the state building code may be added to any manufactured dwelling provided that setbacks within the space can be met and a building permit is obtained from the county.
- (5) Within a manufactured home park, one manufactured home may be used as an administrative office.
- (6) Park maintenance area. An area may be designated as a park maintenance area. Such area shall be appropriately screened.
- (7) Convenience establishments of a commercial nature shall be limited to coin-operated laundries. These may be permitted in manufactured home parks subject to the following restrictions:
  - a. Such establishment shall present no visible evidence of their commercial character from any portion of any residential district outside the park.
  - b. Such establishment shall be designed to serve the trade and service needs of the park residents only.
- (8) The county environmental health section, the county building inspector, and/or the town zoning administrator are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this section. It shall be the duty of the owners or occupants of manufactured home parks to give these agencies free access to such premises at reasonable times for inspection.
- (9) The park owner or operator shall notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities under this section.
- (10) Site plans for manufactured home parks shall comply with the requirements of sections 26-316 through 26-317.

### *(b) Manufactured home space requirements.*

- (1) All manufactured homes shall be located on individual manufactured home spaces served by public utilities. The minimum size for each space shall be 7,000 square feet. Spaces shall not be less than 100 feet in width at the setback line.

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- (2) Each manufactured home space shall be clearly defined by means of concrete or iron pipe markers placed at all corners and each space shall clearly display a street address as assigned by the town.
  - (3) Each manufactured home space shall be located so as not to be susceptible to flooding and shall be graded so as to prevent any water from ponding or accumulating on the premises.
  - (4) Each manufactured home shall be located at least 20 feet from any other manufactured home, at least 20 feet from any building within the manufactured home park, at least 50 feet from all external property lines, and at least 30 feet from the edge of the right-of-way of any private interior road. The setback from a public road right-of-way shall be the same as that required for the zoning district in which the manufactured home park is located.
  - (5) Accessory buildings. Accessory buildings may be constructed in the rear yard provided they are no larger than ten feet by 12 feet and no closer than 15 feet from any adjoining lot line.

(c) *Road and access requirements.*

- (1) Convenient access to each manufactured home space shall be provided by roads with a minimum right-of-way of 50 feet for a residential collector road and 45 feet for a local residential road as defined by the North Carolina Department of Transportation—Subdivision Roads Minimum Construction Standards Manual. The required traveled way width is 20 feet for a 50-foot right-of-way and 18 feet for a 45-foot right-of-way. Private roads within manufactured home parks shall conform to the construction standards.
- (2) Proper sight lines shall be maintained at all road intersections in accordance with the current NCDOT requirements for sight clearances.
- (3) New road names shall not duplicate or be similar to existing road names and shall be subject to approval by the town.
- (4) Two automobile parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any road in the park.
- (5) No manufactured home space shall have direct vehicular access to a public road.
- (6) All manufactured home spaces shall directly abut a private road contained within the park.
- (7) The manufactured home park owner shall be responsible for the continued maintenance of the roads within the manufactured home park.

(d) *Utility requirements.*

- (1) *Water supply.* An accessible, adequate, and potable supply of water shall be provided in each manufactured home park. Where a municipal water supply is available, connection shall be made thereto and its supply used exclusively. When a municipal water supply is not available, a community water supply shall be developed, and its supply used exclusively in accordance with the standards of the state division of health services. Placement of water improvements to manufactured home spaces shall comply with the state building code for plumbing.
- (2) *Sewage disposal.*
  - a. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment plants complying with the requirements of the state division of environmental management shall be provided. Plans for sewage collection systems and treatment facilities shall be submitted to the state division of environmental management. Placement of sewer improvements to manufactured home spaces shall comply with the state building code for plumbing. Individual septic tank systems can be considered, if soil, topography, and ground water conditions are favorable and approval from the county health department is obtained.

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- b. Provision shall be made for plugging the sewer pipe when a manufactured home does not occupy a space. Surface drainage shall be diverted away from the rise. The rim of the riser pipe shall extend at least four inches above ground elevation.
- (3) *Solid waste disposal and sanitation requirements.*
- a. The storage, collection, and disposal of solid waste in the manufacture home park shall be in accordance with the requirements of the town.
  - b. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the county health director.
  - c. Parks shall be maintained from an accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.
  - d. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe, and other building materials shall be stored at least one foot above the ground.
  - e. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
  - f. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac, and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.
- (4) *Street lighting requirements.* All roads in the manufactured home park shall be adequately illuminated from sunset to sunrise. The minimum size street light shall be a 175 watt mercury-vapor (approximately 7,000 lumen class), or its equivalent, spaced at intervals of not more than 300 feet.
- (5) *Electrical service requirements.* Minimum electrical service shall be provided to each manufactured home space in accordance with the National Electrical Code.
- (e) *Screening requirements.* When a manufactured home park is to be constructed within 50 feet of a recorded residential subdivision not naturally screened with existing evergreen vegetation located on the site of the proposed manufactured home park, the owner of the park shall provide and maintain a five-foot buffer yard along the adjacent boundary. The buffer yard shall be planted in evergreen trees or shrubbery or solid fencing at least five feet in height.
- (f) *Recreational space requirements.* Each manufactured home park shall provide 400 square feet of recreational area for each manufactured home space that is less than 10,000 square feet in area. However, no recreational area required by this subsection shall be less than 2,500 square feet.

(Ord. of 4-10-2006, § 504.95)

### **Sec. 26-249.5 Micro-distillery, micro-brewery, or micro-winery.**

An establishment for the manufacture, blending, fermentation, processing, and packaging of alcohol that takes place wholly inside the building, with the exception of loading. These facilities may incorporate tasting rooms or tours, with all applicable ABC Commission permits. A facility which only provides tasting or retail sales of alcoholic beverages is not a micro-distillery, micro-brewery, or micro-winery.

- (a) General requirements.
  - (1) Except for loading, all activities must occur within a building.
  - (2) Must have an off-street, alley, or parking loading dock.

- (3) Must obtain all applicable ABC commission permits.
- (4) Subject to all applicable laws for the manufacturing, sale, and distribution of alcoholic products.
- (5) All buildings and/or structures must comply with rules enforced by the following departments if applicable: Nash County Building Inspections, Public Utilities, Environmental Health, NC Department of Transportation.
- (6) If located in the CB and GB districts, the facility must include a tasting room, restaurant, or incorporate tours.
- (7) Shall not produce odors, gas, dust or any other atmospheric pollutant detrimental to the health, safety, or general welfare of persons living or working in the surrounding area.
- (8) Must abide by article VI: Landscaping requirements.
- (9) No drive through is permitted.
- (10) Must abide by all zoning requirements including but not limited to signs for the Town of Spring Hope.

(Ord. of 2-6-2017(1))

**Sec. 26-250. Multifamily dwellings and townhouses (including patio homes).**

- (a) *Maximum density allowed.* Maximum density shall be one dwelling unit per 4,000 square feet of net acreage.
- (b) *Building separation.* The minimum horizontal distance between the vertical projections of any points on two adjacent buildings shall be determined according to the following table. The vertical projections for each building shall be drawn from that point on each building which is horizontally closest to the other building.

Height of Taller Building	Minimum Horizontal Distance Between Vertical Projections
20 feet or less	16 feet
Between 20.1 and 25.0 feet	25 feet
Between 25.1 and 30.0 feet	30 feet
Between 30.1 and 35.0 feet	40 feet

- (c) *Distance related to windows.* The minimum distance between the centers of facing windows of different dwelling units shall be 20 feet.
- (d) *Perimeter yard required.* A yard of at least 50 feet shall be provided around the entire perimeter of the site, with the exception of driveways. Parking spaces and accessory buildings and structures shall not be allowed in the required yard.
- (e) *Access for emergency vehicles.* Access for emergency vehicles to all parts of the complex and to each dwelling unit shall be provided.
- (f) *Maximum number.* The maximum number of townhouse units attached to each other shall be eight.
- (g) *Accessory uses.* Accessory uses such as leasing offices, coin-operated laundry facilities, swimming pool snack bars and similar uses for residents of the multifamily dwelling may be allowed provided that they are intended to serve residents of the dwelling or complex only, will not be visible from the exterior of the site and will not attract outside traffic to the site.



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(h) *Recreation and open space.*

- (1) Every person or corporation who establishes a multifamily project for residential purposes shall be required to dedicate a portion of such land for the purpose of park, recreation, and open space sites to serve the residents of the multifamily project. The recreation area shall be clearly designated on the site plan for the project.
  - (2) The minimum amount of land that shall be dedicated for recreation, parks, or open space in all townhouse and multifamily projects shall be one-half acre for each townhouse, or five percent of the gross acreage, whichever is greatest.
  - (3) Suitability of land. Criteria for evaluating suitability of proposed recreation, parks, and open space areas shall include, but not be limited to, the following, as determined by the board of commissioners in consultation with the planning board:
    - a. *Unity.* The dedicated land shall be a single parcel except where it is determined that two or more parcels would be in the public interest. The board of commissioners may require that parcels be connected, and may require the dedication of a connecting path of up to 60 feet, and in no case less than 30 feet in width in addition to the land required in subsection (h)(2) of this section.
    - b. *Location.* The dedicated land shall be located so as to serve the recreation needs of the project.
    - c. *Accessibility.* Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement may be required to be up to 60 feet in width and shall in no case be less than 30 feet in width.
  - (4) Usability. The dedicated land shall be usable for active recreation (i.e., play areas, ball fields, tennis courts, or similar recreation uses). Lakes may not be included in computing amount of land to be dedicated unless acceptable to the board of commissioners. If the board of commissioners determines that active recreation needs are being met by other dedicated parcels or existing recreation facilities, then land that is suitable for open space may be dedicated.
  - (5) The board of commissioners may, in cases of unusual or exceptional nature, allow adjustments in the dedication requirements established in or required by this chapter. Such adjustments shall be reviewed by the planning board and recreation committee before action by the board of commissioners.
  - (6) In the case of townhouse or condominium project, the land required by this section shall be deeded to a homeowners' association.
  - (7) Nothing herein shall be construed to limit the amount of privately controlled open space which may be included in this agreement, over and above the recreation and park site obligation.
- (i) *Homeowners' association required.* For townhouse or condominium projects, a homeowners' association shall be established which shall have responsibility for the maintenance of all common areas. The association shall also be responsible for all open space and recreation areas that are not deeded to the town. The developer or owner shall file with the zoning administrator for review by the planning board, a declaration of covenants and restrictions as well as regulations and bylaws that will govern the maintenance of all common areas, recreation and open space. The approved document shall be recorded with the final townhouse or condominium project plat. Provisions shall include, but not be limited to, the following:
- (1) The association shall be established before the units are sold.
  - (2) Membership shall be mandatory for each home buyer and all successive buyers, unless another arrangement is approved by the board of commissioners which adequately protects the interest of the town and the owners.

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- (3) The association shall be responsible for the liability insurance, local taxes, and maintenance of the recreation and other facilities.
  - (4) Any sums levied by the association that remain unpaid shall become a lien on the individual homeowner's property which shall be subordinate only to tax and mortgagee liens unless another arrangement is approved by the board of commissioners which adequately protects the interests of the town and the owners.
  - (5) If all or any portion of the property held by the association is being disposed of, or if the association is dissolved, adequate open space shall be deeded to the town to satisfy the requirements for public recreation space under this section.
  - (6) An owner of each dwelling unit or each homeowner shall have voting rights in the association.
  - (7) The following information shall also be provided:
    - a. The name of the association.
    - b. The manner in which directors of the association are to be selected.
    - c. The post office address of the initial registered office.
    - d. The name of the city and county in which the registered office is located.
    - e. The number of directors constituting the initial board of directors.
    - f. The names and addresses of the board of directors shall be submitted annually to the town.
  - (8) Property owners shall be furnished with a copy of the declaration of covenants and restrictions by the seller of the individual lots.

(Ord. of 4-10-2006, § 504.100)

### **Sec. 26-251. Nightclub.**

- (a) Private clubs shall be open to members of the club and their guests only.
- (b) Hours of operation shall be no later than 1:00 a.m.
- (c) Outdoor entertainment areas shall not be permitted.
- (d) Music, loudspeakers, and similar noise devices shall not be permitted outdoors. Noise emanating from the club shall not exceed ambient noise levels in the surrounding area at a distance of more than 100 feet from any point of the property containing the club.

(Ord. of 4-10-2006, § 504.105)

### **Sec. 26-251.5. Pet grooming.**

An establishment for any person engaged in the operation of changing the physical appearance of the skin, coat, hair, or feathers of pet animals for compensation. A groomer facility is any permanent establishment where a person pays a fee to have his/her pet animal's skin, coat, hair, or feathers cleaned, styled, or maintained or where a person pays to have his/her animal's physical appearance changed.

- (a) General requirements.
  - (1) Pets animals will not be kenneled within the facility overnight.
  - (2) All activities related to pet grooming must take place within an enclosed building.

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- (3) All buildings and/or structures must comply with rules enforced by the following departments if applicable: Nash County Building Inspections, Public Utilities, Environmental Health, NC Department of Transportation.
  - (4) Must abide by all zoning requirements including but not limited to signs for the Town of Spring Hope.

(Ord. of 2-5-2018(1))

### **Sec. 26-252. Schools and colleges.**

The planning board shall carefully review the site plans for any possible traffic congestion problems or impacts to adjacent residential neighborhoods.

(Ord. of 4-10-2006, § 504.110)

### **Sec. 26-253. Shopping center.**

- (a) Shopping centers shall contain only uses allowed as permitted, special or conditional uses in the CB and GB districts. No shopping center building shall be less than 50 feet from the street right-of-way line, or less than 30 feet from another property line.
- (b) Accessory outdoor sales area. All merchandise for sale or rent shall be contained within the building envelope or under cover of attached canopies except:
  - (1) Sidewalk sales or other organized temporary promotional events not to exceed one event per month.
  - (2) Lawn and garden centers, home improvement or department stores may permanently display plant materials, lawn and garden supplies, outdoor furniture or similar merchandise. All sales areas shall be contained within a designated area immediately adjacent to the primary retail building. Any permanent sales areas shall be designated on the required site plan. Sales areas shall not encroach upon required parking areas and must be designed so as not to impede the passage of vehicles within required parking areas. All tents or detached canopies must be securely tied down and maintained to prevent a hazardous condition.

(Ord. of 4-10-2006, § 504.115)

### **Sec. 26-253.5. Solar generation facility, utility scale.**

Development standards:

- a) The perimeter of the area containing the solar generation facility shall be located at least 200 feet from every residence not on the same property as the facility.
- b) The solar generation facility shall be enclosed by a chain-link security fence, a minimum of six feet in height and topped with barbed wire.
- c) Except for poles and lines necessary to connect the facility to the electrical utility grid, the height of structures and arrays associated with the facility shall not exceed 25 feet, and structures and arrays shall be set back at least 100 feet from every public road right-of-way.
- d) A Type A planting yard per Section 503 shall be provided where the property on which the solar generation facility is located adjoins residential uses, unless the Board finds that equivalent natural vegetation exists sufficient to satisfy the screening requirement, or that the distance between the use and residences renders all or certain portions of screening unnecessary.

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- e) Prior to construction, the developer of the site shall consult with NCDOT or the town director of public works regarding necessary driveway location and improvements to ensure safety and to protect the public road or street from damage during construction, and shall comply with such requirements.
  - f) The site shall conform to applicable stormwater regulations, such as water supply watershed protection regulations and river basin rules, to prevent erosion and protect water quality in adjacent surface waters. Prior to development of the site, the applicant shall consult with the N.C. Division of Water Quality concerning compliance with applicable stormwater management requirements.
  - g) The solar generation facility shall be developed in accordance with an approved site plan that includes:
    - 1. The location of the solar generation facility (including the arrangement of any existing or proposed buildings, structures, or panels);
    - 2. The distance from any proposed solar generation facility, structure, or use area to the surrounding property lines;
    - 3. Any existing or proposed signs, fencing, lighting, parking areas, driveways, landscaping, vegetative screening or required buffers;
    - 4. Horizontal and vertical (elevation) scaled drawings with dimensions of proposed solar collector structures; and
    - 5. Noted limitations on built-upon area as required for compliance with stormwater, watershed, and/or riparian buffer regulations.
  - h) Structures and equipment shall be removed within 180 days of determination by the town that the facility is no longer being maintained in an operable state of good repair, unless the current responsible party with ownership interest in the facility provides substantial evidence to the zoning administrator of the intent to maintain and reinstate operation of the facility.
  - i) One or more of these standards may be modified or relaxed as appropriate to suit the particular setting and site, if, in the considered judgment of the reviewing board, doing so will ensure that any potentially injurious effect of the use on adjoining properties, the character of the neighborhood, or the health, safety, morals, or general welfare of the community is minimized.

(Ord. of 9-9-2013)

### **Sec. 26-254. Storage and salvage yards (outdoor).**

- (a) *Minimum area.* The minimum area required to establish a storage and salvage yard shall be five acres.
- (b) *Use separation.* The operations of salvage yards shall not be any closer than 300 feet to any residential property line. Neither should any such operations be closer than 300 feet to the property line of any school, hospital, nursing and convalescent home, or day care facility.
- (c) *Screening.* Salvage yards shall be enclosed by a sight obstructing screen of at least eight feet in height adjacent to public roads and eight feet in height adjacent to properties of a residential, educational or institutional nature. All such screens shall be maintained in a sound and stable manner for the life of the operation. Entrances and exits shall be secured when the salvage yard is closed. If state or federal requirements for screening are more stringent, such requirements shall be applicable.
- (d) *Noise.* Equipment-producing noise or sound in excess of 70 decibels measured at the source, shall be located no closer than 400 feet to the nearest residence. No noisy processing shall be carried on in

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connection with the business on Sundays, Christmas, Thanksgiving, or at any time between the hours of 6:00 p.m. and 7:00 a.m.

- (e) *Vibration.* No vibration shall be produced which is transmitted through the ground and which is discernable without the aid of instruments at or beyond the lot line.
- (f) *Dust and particulates.* Emissions of dust and particulates shall be in accordance with the state rules and regulations governing air contamination and air pollution. Particulate matter emission from materials and products subject to becoming windborne will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means such as to render the surface wind resistant. Points of ingress and egress shall be paved/hard-surfaced with either concrete or asphalt.
- (g) *Smoke and burning.* Emissions of smoke and burning of nonvegetative matter shall not be permitted on the site of a salvage yard.
- (h) *Trash and garbage.* Disposal of trash and garbage shall be in an approved container and be regularly maintained. Open dumping of trash or garbage shall be prohibited.
- (i) *Disposal of toxic/hazardous matter.* Disposal of toxic/hazardous matter on any salvage yard site shall be expressly forbidden.
- (j) *Storage of fuels.* Storage of fuels shall be contained in below ground tanks meeting the requirements of the state. No such fuel storage shall be within 1,000 feet of any residential, educational, or institutional structure. Location of fuel storage tanks shall be so designed as to prevent leakage or spillage into any stream. Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal.
- (k) *Drainage.* Salvage yard sites shall be adequately drained to ensure that no standing water shall exist that might provide breeding habitation for insects.
- (l) *Weeds and vegetation.* Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than six inches.
- (m) *Storage.* Salvage materials shall be stored in piles not exceeding ten feet in height and shall be arranged as to permit easy access to all such salvage for firefighting purposes.
- (n) *Permit requirements.* The facility shall obtain all applicable state and federal permits.

(Ord. of 4-10-2006, § 504.120)

## **Sec. 26-255. Telecommunication towers.**

- (a) *Where required.* RA, CB, GB, IC, LI, HI, except that communications towers on government facilities and structures are allowed by right in all zoning districts. Towers not located on existing structures shall be subject to the setback, sign, security, lighting, abandonment, site plan, and ownership requirements set forth in this section.
- (b) *Co-location.*
  - (1) Co-location on a previously approved tower is permitted without an additional special use permit provided that all conditions of the previously approved permit are complied with.
  - (2) Co-location on a building or substantial structure, such as a water tower, shall not require the issuance of a special use permit, but all other applicable provisions shall be met and approved by the zoning administrator. The zoning administrator may require the issuance of a special use permit if there is doubt as to whether or not a given proposal is in compliance with the intent of the section.

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- (3) Where a new tower is proposed, documentation shall be required to substantiate why the proposed antenna and/or equipment cannot be accommodated on a previously approved tower due to one or more of the following reasons:
- a. The planned equipment would exceed the structural capacity of the previously approved towers, considering their existing and planned use, and those towers cannot be reinforced to accommodate the planned or equivalent equipment at a reasonable cost; or
  - b. The planned equipment would cause radio frequency (RF) interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost; or
  - c. Previously approved towers do not have space on which the planned equipment can be placed so it can function effectively and reasonably in parity with the existing and/or planned equipment of the present users; or
  - d. Other reasons make it impractical to place planned equipment on previously approved towers. (The applicant must explain and document in detail such other reasons.)
- (4) Where a new tower is proposed and sufficient reasons for a new tower exist, favorable consideration will be given to towers designed to accommodate future users. Documentation shall be required describing the capacity of the proposed tower in terms of today's technology (including the number and type of antennas that the tower will accommodate). Approval of such new tower will be conditioned on space being made available to such future users at a reasonable fee and any necessary costs of adapting the facilities to the proposed future use. A statement of intent on whether excess space will be leased is required.
- (c) *Setback.*
- (1) The minimum tower setback from any property line shall be:
    - a. Equal to the height of the tower; or
    - b. Equal to the maximum fall distance for a professional engineer-certified installation; published engineering data for a particular model of tower will be acceptable to substantiate a setback less than the height of the tower if the building inspector can easily determine that the tower has been installed in accordance with such data, otherwise a professional engineer must certify that the tower is installed as required; or
    - c. For a steel monopole tower with a base diameter greater than or equal to one foot, equal to one-half of the height of the tower, provided that a professional engineer certifies that the tower has sufficient strength to withstand hurricane-force winds of a velocity that have occurred, or can be expected to occur in the area, and that should winds of greater velocity occur, the design of the tower is such as to bend rather than fall.
  - (2) The owners of easements and rights-of-way within the setback must provide a letter of acknowledgment of the proposed tower location.
- (d) *Signs.* No business signs, billboards, or other advertising shall be installed on the tower or security fencing.
- (e) *Security.* Security fencing at least six feet in height shall be installed around the base of the tower or the tower shall be equipped with a professional engineer certified anti-climb device. Published data or documentation for an anti-climb device must be provided to support such device and must be of such nature to enable the building inspector to easily determine that the anti-climb device has been installed in accordance with such data; otherwise, a professional engineer must certify that the anti-climb device has been properly installed.

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- (f) *Lighting.* Towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other federal or state authority and in no case shall exceed the required minimum. Prior to construction of the tower, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.
  - (g) *Abandonment.* Any tower that ceases to be use for communications broadcasting and/or broadcast receiving as permitted by this article for a period of more than 9 months shall be removed by the tower owner at his expense. The removal shall occur within 90 days of the end of such nine-month period.
  - (h) *Site plan requirements.* In addition to the requirements of sections 26-316 through 26-319, the following information shall be provided on the site plan: applicable setbacks, easements and rights-of-way, fencing, access, and an area map indicating the proposed tower and coverage, other towers and coverage areas, and any approved tower sites within a five-mile radius.
  - (i) *Other requirements.* Proof of ownership of the proposed site or authorization to use it and copies of any easements impacting the site.

(Ord. of 4-10-2006, § 504.125)

### **Sec. 26-256. Temporary events.**

- (a) Temporary events shall apply for a temporary event permit from the town on a form provided by the town. The applicant shall describe the nature of the event, provisions for applicable parking, sanitation, security and other information deemed necessary by the town. Any fees shall be in accordance with the town's adopted fee schedule.
- (b) Permits may be issued for no more than a ten-day period. Permits may not be reissued for a similar event within a five-month period.

(Ord. of 4-10-2006, § 504.130)

### **Sec. 26-257. Temporary use.**

The board of commissioners may issue a temporary special use permit for uses which are not permitted in the zoning district or which do not meet all zoning requirements but which are necessary in special situations. A time limit shall be placed on the temporary special use permit and the permit shall not be renewed except upon a compelling showing of the need therefor, and the board of commissioners may attach any reasonable and appropriate conditions and safeguards it deems necessary.

(Ord. of 4-10-2006, § 504.135)

### **Sec. 26-258. Truck stops.**

The following provisions apply to truck stops:

- (1) A minimum 12-foot-high opaque fence shall be provided next to adjacent residentially zoned property.
- (2) The maximum height of any outdoor lighting source shall be 30 feet.

(Ord. of 4-10-2006, § 504.140)

### **Secs. 26-259—26-279. Reserved.**

## ***ARTICLE VIII. ADMINISTRATIVE PROVISIONS***

### **Sec. 26-280. Zoning administrator.**

The zoning administrator shall be appointed by the board of commissioners and is duly charged with the enforcement of the provisions of this chapter. If the zoning administrator finds that any of the provisions of this article are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall also take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Ord. of 4-10-2006, § 601.1)

### **Sec. 26-281. Planning board.**

- (a) Powers and duties of planning board. As directed by the board of commissioners, the planning board shall have the following duties:
- (1) Make studies and recommend to the board of commissioners plans, goals and objectives relating to the growth, development and redevelopment of the town planning jurisdiction.
  - (2) Develop and recommend to the board of commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
  - (3) Make recommendations to the board of commissioners concerning proposed special use permits and proposed zoning text and map amendments, as provided by sections 26-327 through 26-333.
  - (4) Review and approve minor subdivisions in accordance with chapter 24, the subdivision regulations of the town.
  - (5) Perform any other duties assigned by the board of commissioners.
- (b) The planning board shall adopt rules and bylaws in accordance with the provisions of this chapter and of G.S. 160A-360 et seq.
- (c) *Conflict of interest.* Planning board members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(Ord. of 4-10-2006, § 601.2)

State law reference(s)—Planning board, G.S. 160A-361; powers and duties, G.S. 160A-387.

### **Sec. 26-281.1. Appointment and terms of planning board members.**

- (a) There shall be a planning board consisting of nine members, and two alternate members may also be appointed to the board.
- (1) Four full members shall reside within the town.
  - (2) One full member is reserved for the standing Mayor.



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- (3) One full may be appointed from a town advisory board (such as, but not limited to the downtown development board, tree board, etc.), who resides within the county; provided however, if a town advisory board member cannot be found, an in-town resident shall be selected.
  - (4) One full member appointed may be an actively owner-occupied business and property owner that resides within the county; provided, however, if an owner-occupied business and property owner cannot be found, an in-town resident shall be selected.
  - (5) Two full members nominated by the Spring Hope Board of Commissioners and appointed by the Nash County Board of Commissioners, shall reside in the town's extraterritorial jurisdiction (ETJ).
  - (6) Two alternates may be appointed by the board of commissioners. Either of the alternate positions is to be filled by a resident in town or the extraterritorial jurisdiction. If, despite good faith efforts, enough residents of the town or extraterritorial jurisdiction cannot be found to fill the seats reserved for the alternate members, then the board of commissioners may appoint other residents of the county to fill these seats.
- (b) Board members shall be appointed for three year staggered terms, but members may continue to serve until their successors have been appointed.
  - (c) Members may be appointed to no more than two successive three year terms. For any member to be eligible to serve another three year term, he or she must remain off of the board a minimum of one year to be appointed again.
  - (d) The alternates shall sit in lieu of either in-town or out-of-town members not present in order to establish a quorum. All members (including alternate members when sitting in lieu of a regular member) may participate and vote on all issues before the board regardless of whether the issue affects property within town or within the extraterritorial jurisdiction.
  - (e) Faithful attendance at the meetings of the board is considered a prerequisite for maintenance of membership on the board.
- (Ord. of 1-1-2019(1))

### **Sec. 26-281.2. Meetings of the planning board.**

- (a) The planning board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action with applications expeditiously.
- (b) When the board acts solely in its advisory capacity (for example, when it considers rezoning applications), it need not conduct its meetings (or portions of meetings) strictly in accordance with the quasi-judicial procedures. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.
- (c) Minutes shall be kept of all board proceedings.
- (d) All board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.
- (e) Whenever the board is called upon to make recommendations concerning a special use permit request, notice shall be given in accordance with section 26-332.

(Ord. of 1-1-2019(1))

### **Sec. 26-281.3. Quorum and voting.**

- (a) A quorum for the planning board shall consist of a majority of the board membership, excluding vacant seats. A quorum is necessary for the board to take official action.

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- (b) All actions of the planning board shall be taken by majority vote, a quorum being present.
  - (c) A roll call vote shall be taken upon the request of any member.
  - (d) Extraterritorial planning area members may vote on all matters considered by the board, regardless of whether the property affected lies within or without the town.

(Ord. of 1-1-2019(1))

#### **Sec. 26-281.4. Planning board officers.**

- (a) At its first meeting in December of each year, the planning board shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The people so designated shall serve in these capacities for terms of one year, unless their terms of appointment to the board expire sooner. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).
- (b) The chairman and vice-chairman shall take part in all deliberations and vote on all issues.

(Ord. of 1-1-2019(1))

#### **Sec. 26-281.5. Advisory committees.**

- (a) From time to time, the town board may appoint one or more individuals to help the planning board carry out its planning responsibilities with respect to a particular subject area. By way of illustration, and without limitation, the town board may appoint advisory committees to consider a thoroughfare plan, pedestrian master plans, bikeway plans, housing plans, economic development plans, etc.
- (b) Members of such advisory committees shall sit as nonvoting members of the planning board when such issues are being considered and lend their talents, energies, and expertise to the planning board. All formal recommendations to the town board, however, shall be made by the planning board.
- (c) Nothing in this section shall prevent the town board from establishing independent advisory groups, committees, or commissions to make recommendations on any issue(s) directly to the town board.
- (d) If an advisory committee provides direct advice to the town board (i.e. it does not report to the planning board), a member of that board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member.

(Ord. of 1-1-2019(1))

#### **Sec. 26-282. Board of adjustment.**

- (a) Establishment. A board of adjustment is hereby established. The Spring Hope Board of Commissioners [is] to serve as board of adjustment. The members of the Spring Hope Board of Commissioners shall serve the dual role as the board of adjustment members. Therefore, the appointment, term and officers of the board of adjustment shall be identical to that of the Spring Hope Board of Commissioners. There shall be two additional members who shall be residents of the area of the extraterritorial jurisdiction (ETJ) and shall be appointed by the County Board of Commissioners upon recommendation by the Spring Hope Board of Commissioners. If the county board of commissioners fails to appoint the ETJ members within 90 days after receiving a resolution from the Spring Hope Board of Commissioners requesting that these appointments be made, the Spring Hope Board of Commissioners may make them.

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- (b) Proceedings of the board of adjustment. The board of adjustment shall elect a chairperson and vice-chairperson from its regular members, who shall serve for one year or until re-elected or until their successors are elected. The board shall conduct its meetings in accordance with the quasi-judicial procedures, including those set forth in section 26-328 and G.S. 160A-360 et seq. The board of adjustment shall meet on call as needed and shall take action with conformity. The chairperson, or in his absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the board shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.
- (c) Quorum. A quorum for the board of adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action. A member who has withdrawn from the meeting without being as provided in this division (c) shall be counted as present for the purposes of determining whether a quorum is present.
- (d) Voting.
- (1) The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary to reverse any order, requirement decision or determination of the administrator or to decide in favor of the applicant any matter which is required to pass under any ordinance (including the issuance of a conditional use permit) or to grant any variance. All other actions of the board shall be taken by majority vote, a quorum being present.
  - (2) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with (d)(3) below, or has been allowed to withdraw from the meeting in accordance to (d)(4) below.
  - (3) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
    - (i) If the member has a direct financial interest in the outcome of the matter at issue;
    - (ii) If the matter at issue involves the member's own official conduct;
    - (iii) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
    - (iv) If a member has the close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgement in the public interest.
  - (4) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
  - (5) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
  - (6) A roll call vote shall be taken upon request of any member.
- (e) Decision and appeal. Every decision of the board of adjustment shall be filed in the office of the zoning administrator and a written copy thereof shall be delivered to the appellant by personal service or register mail. Every decision by the board shall be subject to review by superior court by proceeding in the nature of certiorari. Any appeal to the superior court shall be taken within 30 days after the decision of the board is filed in the office of the zoning administrator, or after a written copy thereof is delivered to the appellant by personal service or registered mail, whichever is later.

(Ord. of 4-10-2006, § 601.3(A)—(C); Ord. No. 2-4-2019(2))

State law reference(s)—Appeals to superior court in the nature of certiorari, G.S. 160A-393.

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## Sec. 26-283. Powers and duties of the board of adjustment.

The board of adjustment shall have the following powers and duties:

(1) *Administrative review.*

- a. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. An appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the town. Appeals shall be taken within times prescribed by the board of adjustment by general rule, by filing with the officer from whom the appeal is taken, and with the board of adjustment, a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.
- b. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this chapter. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- c. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that, in its opinion, ought to be made in the premises. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

(2) *Variances.*

- a. When owing to special conditions, practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, the board of adjustment shall have the power to vary or modify any of the regulations or provisions of this article relating to the use, construction or alteration of buildings or structures or the use of the land, so the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance. A variance may be granted in such individual cases of unnecessary hardship upon a finding by the board of adjustment that the following conditions exist:
  1. There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size, or topography, that are not applicable to other lands or structures in the same district, or there is a peculiar characteristic of an establishment which makes the parking and/or loading requirements of this chapter unrealistic.
  2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
  3. A literal interpretation of the provisions of the article would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
  4. The request variance will be in harmony with the purpose and intent of this article and will not be injurious to the neighborhood or to the general welfare.

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5. The special circumstances are not the result of the actions of the applicant.
  6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.
  7. The variance is not a request to permit a use which is not a permitted or conditional use in the district involved.
- b. Conditions imposed on variances. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been ensured. Such conditions may be imposed by the board regarding the location, character, and other features of the proposed building, structure, or use as may be deemed by the board to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
  - c. Variances granted by the board run with the land and not to the subject applicant. A variance granted by the board does not expire unless it has not been acted upon within a period of six months from the date of issue. In such cases, the variance may be cancelled upon written notice to the owner of the subject property.
- (3) *Conditional uses.* To hear and decide whether to allow specific conditional uses to be established in the districts indicated; to decide such questions as are involved in determining whether a conditional use should be granted; to grant conditional uses with such conditions and safeguards as are appropriate under this chapter, to or deny conditional uses when not in harmony with the purpose and intent of this chapter. Application for conditional uses shall be decided in accordance with the provisions of sections 26-327 through 26-329.
- (4) *Map interpretation.* To interpret the official zoning map in accordance with section 26-69.

(Ord. of 4-10-2006, § 601.3(D))

State law reference(s)—Board of adjustment, G.S. 160A-388.

**Secs. 26-284—26-314. Reserved.**

## ***ARTICLE IX. PERMITS***

### **Sec. 26-315. Zoning permit required.**

No building or structure including signs and fences, or any part thereof shall be erected, extended, enlarged, or structurally altered or moved until a zoning permit has been issued by the zoning administrator or his authorized representative. A fee in accordance with the town's adopted fee schedule on file in the town clerk's office shall be charged for the issuance of each zoning permit. All applications shall be in a form prescribed by the zoning administrator and shall be accompanied by a site or plot plan in accordance with sections 26-316 through 26-321.

(Ord. of 4-10-2006, § 602.1)

### **Sec. 26-316. Site plan required.**

- (a) Site or plot plans shall be required as part of the application process for any of the following:

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- (1) New structures.
  - (2) Expansions to existing structures.
  - (3) Any new use not contained within an existing building except:
    - a. Agricultural uses which do not involve the construction of buildings, containment pens for livestock, swine, or poultry, or the construction of sediment or animal waste lagoons;
    - b. Temporary or seasonal uses unless the zoning administrator cannot otherwise determine compliance with parking or screening requirements.
  - (4) Any significant change in required landscaping or buffer areas.
  - (5) An expansion to parking areas requiring a landscaping plan in accordance with article VI of this chapter.

(Ord. of 4-10-2006, § 602.2(A))

### **Sec. 26-317. Plot plan requirements.**

A plot plan shall be required for any single-family or duplex residential use, and any other situation determined by the zoning administrator to require such a plan. A plot plan does not require the seal of a professional engineer, architect, landscape architect, or surveyor, but shall be drawn to scale and signed by the preparer. It shall consist of the following elements, except that the zoning administrator has the authority to waive any application requirement where the proposed type or scale of use makes that information unnecessary or impractical:

- (1) The date the plan was drafted along with the name, signature, address and phone number of the preparer.
- (2) The zoning classification of the subject property and all immediately adjacent properties.
- (3) Property lines, lot dimensions, and total acreage.
- (4) The location and extent of rights-of-way and easements.
- (5) The location and type of natural water features (e.g., streams, ponds, rivers, wetlands, etc.).
- (6) The location and dimensions of driveways.
- (7) The approximate location and dimension of structures including signs.
- (8) The location and dimension of parking lots/areas and internal circulation drives.
- (9) The location and dimension of private streets.
- (10) The approximate location and dimensions of landscaping, buffering, screening, fences, and walls.
- (11) Septic tank systems and wells (including dimensions of each).
- (12) The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade).

(Ord. of 4-10-2006, § 602.2(B))

### **Sec. 26-318. Site plan requirements.**

A site plan shall be required for all commercial, industrial and multifamily projects, and any other situations determined by the zoning administrator or planning board to require such a plan. A site plan shall require the seal of a professional engineer, architect, or landscape architect, except that surveyors may also

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seal plans for projects that do not include any engineering stormwater control structures. The plan should be drawn to a scale such that all features are clearly legible. A site plan shall consist of the following elements:

- (1) A location map that shows the project in relation to the larger planning area.
- (2) The names, addresses, and telephone numbers of owners, mortgagees, registered surveyors, land planners, architects, landscape architects, and professional engineers responsible for the development.
- (3) The name of the development.
- (4) Date of plan preparation.
- (5) A north arrow, legend and scale (including a bar scale).
- (6) Environmental features. A site plans shall show existing and proposed features of the site, including (where applicable):
  - a. Natural cover (wood, pastureland, etc.).
  - b. Streams, ponds or rivers.
  - c. Historic sites.
  - d. Fragile environmental areas.
  - e. The approximate location of significant trees (those eight inches or greater in caliper when measured six inches above grade).
  - f. Contour lines shown as dotted lines at no more than two-foot intervals. (This may be modified by zoning administrator depending upon topography.)
  - g. The location, size, and dimensions of all recreational areas and areas intended to remain as permanent open space, clearly indicating whether such open space areas are intended to be offered for dedication to the public.
- (7) Dimensions and layouts of all parking and loading areas including properly designated handicapped spaces.
- (8) Public and private streets and alleys, including planned points of ingress and egress. Driveway approval procedures as required by the state department of transportation shall be initiated.
- (9) Stormwater structures and conveyances.
- (10) Utilities, including water, sewer, electric, power, and telephone.
- (11) The location and dimensions of all structures, including freestanding signs including:
  - a. The number of dwelling units the building is designed to accommodate, if applicable.
  - b. The height and number of stories of the structure.
- (12) Lighting plan.
- (13) All sidewalks, trails, and pedestrian paths.
- (14) Landscaping plan. A landscaping plan in accordance with article VI of this chapter
- (15) Legal features including:
  - a. The zoning of the property and adjacent properties, including zoning district lines.
  - b. Property lines.
  - c. Project phase lines.

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- d. Street rights-of-way.
  - e. Utility easements (including water, sewer, electric, power, stormwater, and telephone).
  - f. Lot dimensions.
- (16) Sign detail required. Whenever a new sign or change in existing sign would require the issuance of a permit, detailed designs showing all relevant information required to determine compliance with the sign regulations shall be required as part of a complete application.
- (17) In addition to the information required in subsections (1) through (16) of this section, manufactured home parks shall provide the following information on the site plan:
- a. Location of all manufactured home spaces with dimensions.
  - b. All recreation and convenience areas including parks, laundry facilities, swimming pools, etc.
  - c. Location of park office.
  - d. Location of dumpsters and sanitation facilities.

(Ord. of 4-10-2006, § 602.2(C))

### **Sec. 26-319. Plan exemption.**

The zoning administrator may, in writing, exempt the applicant from meeting any plan requirement which is clearly inapplicable to the proposed use.

(Ord. of 4-10-2006, § 602.2(D))

### **Sec. 26-320. Cancellation of permit.**

Any permit issued shall become invalid unless the work authorized by it shall have been commenced within six months of its date of issue, or if the work authorized by it is suspended or abandoned for a period in excess of one year. Prior to the expiration of a zoning permit, the applicant may request a six month extension either to begin a project or to continue an inactive project. If the applicant can demonstrate just cause why the extension is needed, the board of commissioners may grant the extension.

(Ord. of 4-10-2006, § 602.3)

### **Sec. 26-321. Record of zoning permits.**

A record of all zoning permits shall be kept on file in the office of the town clerk and open to the public, subject to state law.

(Ord. of 4-10-2006, § 602.4)

### **Sec. 26-322. Certificate of occupancy/compliance.**

No land shall be used or occupied, and no building or structure erected or altered shall be used or changed in use until a certificate of occupancy/compliance has been issued by the zoning administrator stating that the building and/or the proposed use complies with the provisions of this chapter. A certificate of the same shall be required for the purpose of changing any existing use, as well as for maintaining, reviewing, changing, or extending any nonconforming use. The aforementioned certificate shall be applied for coincidentally with the application for a zoning permit and shall be issued within ten working days after the erection or alterations of



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such building or part shall have been completed in conformity with the provisions of this chapter. A record of all such certificates shall be kept on file and open to the public, subject to state law.

(Ord. of 4-10-2006, § 603)

### **Sec. 26-323. Conformance with plans.**

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction.

(Ord. of 4-10-2006, § 604)

### **Sec. 26-324. Right of appeal.**

If the zoning permit and/or occupancy/compliance certificates are denied, the applicant may appeal the action of the zoning administrator to the board of adjustment.

(Ord. of 4-10-2006, § 605)

### **Sec. 26-325. Special uses and conditional uses.**

- (a) The provisions of this chapter permit some uses to be established by right in the appropriate district while other uses are listed which require a permit from either the board of adjustment or board of commissioners. Those which require a permit from the board of adjustment are termed conditional uses by this chapter, while those which involve broader policy considerations and therefore require a permit from the board of commissioners, are termed special uses. Both types of uses, in some circumstances, may be compatible with and desirable in the districts in which they are designated as special or conditional uses, but they may also have characteristics which could have detrimental effects if not properly designed and controlled. All conditional and special use permit requests require a public hearing in accordance with sections 26-327 through 26-329 and must meet the conditions of section 26-326. Some uses due to their nature require design standards in addition to the general conditions listed below. Design standards for individual uses are found in article VII of this chapter.
- (b) If all requirements and conditions are mutually accepted by the applicant and the board of commissioners for special uses, or the board of adjustment for conditional uses, the appropriate board shall authorize the issuance of the special or conditional use permit; otherwise, the permit shall be denied. Any special or conditional use permit so authorized shall be perpetually binding upon the property included in such permit. Permits may be subsequently changed or amended only in response to a request of the property owner by the board of commissioners for special uses or board of adjustment for conditional uses after a public hearing by the procedures in this section.

(Ord. of 4-10-2006, § 606(intro.))

### **Sec. 26-326. Conditions which must be met by special and conditional uses.**

- (a) *General conditions.* In order for any special or conditional use to be granted, the applicant, at the hearing, shall present sufficient evidence to enable the board to find that the following conditions exist where applicable:
  - (1) All applicable specific conditions pertaining to the proposed use have been or will be satisfied.

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- (2) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.
  - (3) Off-street parking, loading, refuse, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
  - (4) Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.
  - (5) The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts.
  - (6) The type, size, and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.
- (b) *Additional conditions.* If the appropriate board approves a special or conditional use, it may, as part of the terms of such approval, impose any additional reasonable conditions and safeguards as may be necessary to insure that the criteria for the granting of such a permit will be complied with and to reduce or minimize any potentially injurious effect of the use on adjoining properties, the character of the neighborhood, or the health, safety, morals, or general welfare of the community. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities.

(Ord. of 4-10-2006, § 606.1)

### **Sec. 26-327. Applications for appeals, variances, and conditional and special uses.**

- (a) The applicant shall submit the appropriate appeal for administrative review, or for a variance, in accordance with section 26-283(1), (2).
- (b) Applications for a special or conditional use permit shall be accompanied by a site plan prepared in accordance with section 26-317. The applicant shall furnish the number of copies established by the zoning administrator along with any other information required for proper review of the application.
- (c) Requests for special use permits when they are part of a requested change to a special use district shall be processed and considered simultaneously with the zoning map change. The notification and hearing requirements for both the map amendment and the special use permit shall follow the procedures of section 26-328.

(Ord. of 4-10-2006, § 607.1)

### **Sec. 26-328. Hearing procedure.**

- (a) *Public hearing procedures.* The board of adjustment or board of commissioners for special uses shall hold a public hearing on the application and shall give due notice of the hearing to the parties involved. In the case of a special use permit application, the planning board shall be given 30 days to review the application before the hearing. The hearing shall not take place until a planning board recommendation has been received or 30 days have elapsed. The planning board shall give due notice to the applicant of any meetings at which the application will be considered.
- (b) *Public notice.* Notice of the public hearing for special use requests 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

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hearing. The initial notice shall appear not more than 25 nor less than ten days prior to the hearing date. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

(c) *Quasi-judicial procedure.*

- (1) All hearings by the board of adjustment for administrative appeals, variances, conditional use permits and by the board of commissioners for special use permits shall be conducted as quasi-judicial hearings in accordance with the general law and court decisions of the state. More specifically, any interested party must be given the opportunity to present evidence or testimony, to cross examine witnesses, to inspect documents, and to offer evidence or testimony in explanation or rebuttal. Findings shall be based on substantial evidence or testimony which is competent, relevant, and material. Findings as to the existence or nonexistence of crucial facts shall be based on sworn evidence or testimony unless the party or parties before the board of adjustment stipulate the facts or waive this requirement.
- (2) Although a four-fifths majority is necessary for the board of adjustment to grant a permit, the board of commissioners does not have to meet this requirement in issuing special use permits. The clerk of the board of adjustment shall keep minutes of the proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact.

(d) *Conflict of interest.*

- (1) A member of any board exercising quasi-judicial functions pursuant to this article 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.
- (2) Vacant positions on the board of adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculations of the requisite supermajority if there are no qualified alternates available to take the place of such board members.

- (e) *Statement required for small scale rezonings.* A statement analyzing the reasonableness of the proposed rezoning shall be prepared in advance of the public hearing for each petition to a special use district. The statement may be prepared by either the zoning administrator or the planning board and shall be presented to the board of commissioners at the public hearing. The statement shall address how the proposed rezoning is compatible with the adopted comprehensive plan of the town.

(Ord. of 4-10-2006, § 607.2)

### **Sec. 26-329. Fees.**

A fee in accordance with the town's adopted fee schedule which is on file in the office of the town clerk shall be paid to the town for each application for an administrative review, variance, or special or conditional use permit not initiated by an officer or agency of the town, to cover the costs of advertising and other administrative expenses involved. No application will be processed until such fee has been paid.

(Ord. of 4-10-2006, § 607.3)

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## Sec. 26-330. Amendments.

This zoning chapter, including the zoning map, may be amended only by the board of commissioners of the town, according to the procedures of this article. Proposed amendments may be initiated by the board of commissioners, planning board, or board of adjustment of the town. Proposed amendments to the text of this chapter may also be initiated by any resident or property owner within the jurisdiction covered by this article, and any property owner within the jurisdiction covered by this article may initiate a request for a change in the zoning classification of his property.

(Ord. of 4-10-2006, § 608(intro.))

## Sec. 26-331. Application.

### (a) *Map amendments.*

- (1) Except for amendments initiated by the board of commissioners, planning board or board of adjustment, no proposed amendment shall be considered by the board of commissioners nor a public hearing held until an application made on a form provided by the town, and containing the following information is submitted by the applicant:
  - a. A statement of the present zoning regulations or district boundary;
  - b. The name and signature of the applicant;
  - c. The tax parcel number of the lot proposed to be rezoned;
  - d. The names and addresses of the owners of the lot in question;
  - e. A map of the proposed amendment showing tax parcel number of the subject property and adjacent properties shall be attached to the application. The map shall show ownership of adjacent lots along with the use of each adjacent property.
- (2) The applicant shall provide any additional information related to the proposed amendment requested in writing by the planning board or board of commissioners. The zoning administrator shall transmit the original application to the board of commissioners and the original application shall be filed in the office of the town clerk after consideration by the board of commissioners. A fee shall be paid to the town for each application not initiated by an officer or agency of the town to cover the costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid.

### (b) *Text amendments.*

- (1) A petition for amendment to the text of this chapter shall consist of:
  - a. A completed application form.
  - b. A written justification for the requested amendment including consistency of the proposal with town planning policies.
  - c. Any other information deemed necessary by the zoning administrator or board of commissioners.
- (2) A fee in accordance with the adopted fee schedule which is on file in the office of the town clerk shall be paid to the town for each application not initiated by an officer or agency of the town to cover the costs of advertising and other administrative expenses involved. No amendment shall be advertised until such fee is paid.

(Ord. of 4-10-2006, § 608.1)

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## Sec. 26-332. Public hearing.

- (a) *Planning board review.* No amendment will be adopted by the board of commissioners until they have held a public hearing on the amendment, and will have given the planning board at least 30 days to make a recommendation concerning the amendment. The planning board may review and make a recommendation on the proposed amendment either before or after the public hearing. In the case of a rezoning to a special use district, the planning board shall be given 30 days before the hearing to review and make a recommendation on both the rezoning and the special use permit application, and the board of commissioners shall hold a public hearing on both the proposed rezoning and the special use permit request.
- (b) *Statement of consistency with adopted plans.* In accordance with G.S. 160A-383, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of commissioners that addresses plan consistency and other matters deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval by the board of commissioners.
- (c) *Notification.*
- (1) Notice of the public hearing shall be published in a newspaper of general circulation in the Spring Hope 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 such period, the day of publication is not to be included, but the day of the hearing shall be included.
  - (2) 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 tax abstracts. The person mailing such notices shall certify to the board of commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.
  - (3) If a zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, the town may, as an alternative method of notification, elect to publish notice of the hearing as required by G.S. 160A-364. Such notification shall not be less than one-half of a newspaper page in size. The advertisement shall be effective only for owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside the newspaper circulation area, according to the address listed on the most recent tax listing for the affected property, shall be notified according to the first class mail provisions listed in subsection (c)(2) of this section.
- (d) *Posting of hearing notices.* When a zoning map amendment is proposed the town shall post a notice of the public hearing on the site proposed for the rezoning or on an adjacent right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice of interested persons.
- (e) *Board of commissioners statement.* Prior to adopting or rejecting any zoning amendment, the board of commissioners shall adopt a statement describing whether its action is consistent with the adopted comprehensive plan. Such statement shall explain why the board of commissioners considers the action taken to be reasonable and in the public interest.

(Ord. of 4-10-2006, § 608.2)

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### **Sec. 26-333. Protest petitions.**

If a qualified protest, as defined in G.S. 160A-385, is filed against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the board of commissioners. For the purposes of this section, vacant positions on the council and members who are excused from voting shall not be considered members of the council for calculation of the requisite supermajority.

(1) *Protest petition qualification.*

- a. To qualify as a protest under this section, the petition must be signed by the owners of either:
  1. Twenty percent or more of the area included in the proposed change; or
  2. Five percent of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.
- b. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the owners of potentially qualifying areas.

(2) *Withdrawal of petition.*

- a. No protest against any change in or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S. 160A-385 unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the town clerk in sufficient time to allow the town at least two normal workdays, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.
- b. The board of commissioners may by ordinance require that all protest petitions be on a form prescribed and furnished by the town, and such form may prescribe any reasonable information deemed necessary to permit the town to determine the sufficiency and accuracy of the petition.
- c. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.
- d. Only those protest petitions that meet the qualifying standards set forth in G.S. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

(Ord. of 4-10-2006, § 608.3)

### **Secs. 26-334—26-354. Reserved.**

## ***ARTICLE X. ENFORCEMENT***

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## **Sec. 26-355. General enforcement.**

Violations of this chapter shall constitute a misdemeanor and/or at the election of the town, shall subject the violator to civil penalties and/or where permitted by law, equitable remedies for said violation as hereinafter provided.

## **Sec. 26-356. Injunction and order of abatement remedies.**

- (a) Any provision of this article that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the general court of justice. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- (b) An order of abatement may direct:
  - (1) That buildings or other structures on the property be closed, demolished or removed;
  - (2) That fixtures, furniture or other movable property be removed from buildings on the property;
  - (3) That abandoned or junked vehicles be removed;
  - (4) That improvements or repairs be made; or
  - (5) That any other action be taken that is necessary to bring the property into compliance with this article.
- (c) If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

## **Sec. 26-357. Civil penalties.**

- (a) *Notice of violation.*
  - (1) Upon determination of a violation of any section of this chapter, the penalty for which is a civil penalty, the town shall cause a notice of violation to be issued to the violator by the appropriate official of the town and served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the town or as obtained from the violator or his agent. The appropriate town official serving the notice of violation shall sign and have notarized an affidavit describing the type of service and the date of service. The violator shall be deemed to have been served upon the mailing or personal service of the notice of violation.
  - (2) The notice of violation shall set out the nature of the violation, the Code section or ordinance violated, the date or dates of the violation, and shall contain an order to immediately cease the violation. The notice of violation shall specify that a second and subsequent citations will assess a civil penalty, together with costs, attorney fees, and such other relief as provided by law. The notice

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of violation shall also inform the violator of the violator's appeal rights. If the violation is in the nature of an offense for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated within which the violation must be abated.

- (b) *Appeals.* The violator must file an appeal from a notice of violation within 10 days from the service date of the notice of violation as indicated on the affidavit of service. An appeal is deemed filed when it is received by the town clerk. Forms and instructions for filing an appeal shall be made available at the office of the town clerk. A violator who fails to file an appeal within the time period described above is deemed to have forfeited the appeal for the violation, the notice of violation, the civil citations, and the civil penalties assessed for the violation. Appeals shall be heard by the board of adjustment or other administrative process established by the town. The decision of the board of adjustment is subject to review in the superior court of the county in the nature of certiorari.
- (c) *Extensions allowed.* Where the town determines that the period of time stated in the original notice of violation is not sufficient for abatement based upon the work required or based on a consent agreement, the town may amend the notice of violation to provide for additional time.
- (d) *Civil citation.* Upon failure of the violator to comply with the notice of violation within 10 days of service, a civil citation in the amount of \$50.00 shall be issued by the appropriate official of the town and served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the town or obtained from the violator or his agent.
- (e) *Citation contents and repeat violations.* The civil citation shall direct the violator to immediately cease the violation, shall inform the violator of the penalty amount, and shall direct the violator to make payment at town hall within ten days of the date of the civil citation, or alternatively to pay the citation by mail postmarked within ten days of service of the civil citation. Once a notice of violation has been issued and the ten-day warning period has expired, civil citations in the amount of \$50.00 may be issued for each day the same or similar violation continues until the prohibited activity is ceased or abated. If a violation is repeated within a two-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies as set forth in this section. A repeat violation is one which is identical to or reasonably similar to a previous violation for which a notice of violation or civil citation has been issued by the town.
- (f) *Settlement of civil claim.* If the violator fails to respond to a civil citation within ten days of its service, and pay the penalty prescribed therein, the town may institute a civil action in the nature of debt in the appropriate division of the state general court of court of justice for the collection of the penalty, costs, attorney fees and such other relief as permitted by law.

(Ord. of 4-10-2006, § 609.3)

Cross reference(s)—Public nuisances: Nuisance abatement procedures; civil penalties, § 10-4.

### **Sec. 26-358. Criminal penalties.**

Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not to exceed \$500.00 and/or imprisonment for a period not to exceed 30 days. Each day a violation continues shall be deemed a separate offense, provided that the violation of this article is not corrected within 30 days after notice of said violation is given.

(Ord. of 4-10-2006, § 609.4)