

Town of Atlantic Beach, South Carolina



# LAND MANAGEMENT ORDINANCE

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**TOWN OF ATLANTIC BEACH**  
**TITLE 5, CHAPTER 3**  
**“LAND MANAGEMENT ORDINANCE OF THE TOWN OF ATLANTIC**  
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**TITLE 5, CHAPTER 3**  
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# ARTICLE I. INTRODUCTORY PROVISIONS

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## DIVISION 1. GENERAL

### SECTION 5.3.1 Title and Citations

This Chapter shall be known as the “Land Management Ordinance of the Town of Atlantic Beach, South Carolina” (hereinafter referred to as “this LMO” or “this Chapter”). The map referred to in this Chapter, which is identified by the title “Zoning Map of the Town of Atlantic Beach, South Carolina”, dated September 25, 2019 and all explanatory matter thereon are hereby adopted and made a part of this Chapter. Individual sections of this Chapter may be cited by reference to the section number as follows: “Title 5, Chapter 3, [section #].”

### SECTION 5.3.2 Authority

This Chapter establishes zoning and land development regulations for the Town of Atlantic Beach, South Carolina pursuant to the statutory authority conferred by Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended, except where specific reference is made to authority granted by other provisions of said code.

### SECTION 5.3.3 Purpose

This Chapter is adopted for the purposes of guiding development in accordance with the Town's Comprehensive Plan and existing and future needs of the Town in order to protect, promote, and improve the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. This Chapter is designed to exercise the full range of authority available to the Town under Chapter 29 of Title 6 to:

- A. Implement the goals, objectives, and policies of the Comprehensive Plan;
- B. Provide for adequate light, air, and open space;
- C. Prevent the overcrowding of land, to avoid undue concentration of population, and to lessen congestion in the streets;
- D. To facilitate the creation of a convenient, attractive, and harmonious community;
- E. Protect and preserve scenic, historic, or ecologically sensitive areas;
- F. Regulate the density and distribution of populations and uses of buildings, structures, and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airport and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes;
- G. Facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements;
- H. Secure safety from fire, flood, and other dangers;
- I. To encourage the development of an economically sound and stable community;
- J. Assure the timely provision of required streets, utilities, and other facilities and services to new land developments;
- K. Assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

# ARTICLE I. INTRODUCTORY PROVISIONS

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- L. Assure the provision of needed public open spaces and building sites in new land developments through the dedication and reservation of land for recreational, educational, transportation, and other public purposes; and
- M. Assure, in general, the wise and timely development and redevelopment of areas in harmony with the Comprehensive Plan.

## SECTION 5.3.4 Jurisdiction and Applicability

This Chapter shall apply to all development, public and private, within the Town of Atlantic Beach. All structures and land uses, to include the subdivision of land and all improvements customary thereto, constructed or commenced hereafter shall be subject to the provisions of this Chapter. Moreover, all enlargements of, additions to, changes in and relocations of existing structures and uses, and all other land developments occurring hereafter shall be subject to this Chapter and all other authorities pursuant to Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended.

### Sec. 5.3.4.1 Limited Exemption for Change of Use in Existing Structures

If a use of any structure is hereafter changed to another use, then the new use must comply with the use and density requirements of this Chapter; but the mere establishment of a new use does not require the existing structure to comply with the dimensional standards of the zoning district, provided no structural enlargements occur.

### Sec. 5.3.4.2 Exemptions as Provided by the State or Federal Code

Where the Code of Laws of South Carolina or federal law provides that a specific activity or use is exempt from the requirements of a local zoning ordinance and/or development regulation, said activity and/or use is deemed exempt for the purposes of this Chapter. This provision shall not be construed to extend to permissive exemptions that are provided in the State Code or federal law where such exemptions are discretionary to the Town.

## SECTION 5.3.5 Conflicting Provisions

- A. Where there is a conflict or apparent conflict among provisions of this Chapter, the more restrictive provision shall govern. Where it is possible to implement, administer, or construe a particular provision in more than one (1) way, it shall be implemented, administered, or construed in such a way that eliminates or minimizes conflicts with other provisions of this Chapter.
- B. Whenever the regulations of this Chapter require a greater width or size of yard, require greater percentages of a lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute, the requirements of this Chapter shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Chapter, the provisions of such statute shall govern.

## SECTION 5.3.6 Relationship to Deed Restrictions

In accordance with S.C. Code Ann. § 6-29-1145, Town applications for zoning and land development permits or approvals, other than those authorizing the building or placement of a structure on a tract or parcel of land, shall ask whether the subject tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the proposed activity. If the Town has actual notice of such a restrictive covenant, whether from the application or other source, the Town shall not issue the permit unless the Town receives written confirmation and proof from the applicant that the restrictive covenant has been

## **ARTICLE I. INTRODUCTORY PROVISIONS**

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released for the tract or parcel of land by action of the appropriate authority or property holders, or by court order. The issuance of a permit does not affect the applicant's obligations under any recorded covenants.

### **SECTION 5.3.7 Severability**

The various articles, divisions, sections, subsections, provisions, paragraphs, and clauses of this Chapter are severable and in the event that any article, division, section, subsection, provision, paragraph, or clause is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Chapter is unaffected and shall remain in full force and effect.

### **SECTION 5.3.8 Effective Date**

The provisions in this Chapter represent an updated and amended version of provisions that were originally adopted and became effective on December 9, 2001. The effective date of this Chapter shall be upon its adoption. Thereafter, the provisions of the Land Management Ordinance, effective on December 9, 2001 and including all amendments thereto, are supplanted by this Chapter.

### **SECTIONS 5.3.9 through 5.3.19 Reserved**

# ARTICLE I. INTRODUCTORY PROVISIONS

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## DIVISION 2. TRANSITIONAL PROVISIONS

### SECTION 5.3.20 Conversion of Existing Districts

On the effective date of this Chapter, land zoned with a zoning district classification from the previous LMO shall be translated to one (1) of the zoning district classifications in this LMO as set forth in Article IV and illustrated on the Zoning Map of the Town of Atlantic Beach, South Carolina dated September 25, 2019 and all explanatory matter thereon.

### SECTION 5.3.21 Violations Continue

Any violation of the Town's previous LMO shall continue to be a violation under this LMO, and be subject to the penalties set forth in Article III, unless the development complies with the express terms of this LMO.

### SECTION 5.3.22 Nonconformities

If any use, structure, lot, sign, or other site feature was legally established prior to the effective date of this Chapter, but does not fully comply with the standards of this LMO, then that use, structure, lot, sign, or other site feature shall be considered nonconforming and subject to the provisions of Article IX. If a use, structure, lot, sign, or site feature that was legally nonconforming under the prior LMO becomes conforming under this LMO, it shall no longer be deemed nonconforming.

### SECTION 5.3.23 Policy Regarding Prior Approvals and Pending Applications

- A. Land development plans and subdivision plats submitted to and approved by the Town prior to the effective date of this Chapter shall have expiration dates as follows:
  1. The Vested Rights Act. The expiration of a phased development plan or a site specific development plan, as defined in the Vested Rights Act, S.C. Code Ann. § 6-29-1510 et seq., approved by the Town prior to the effective date of this Chapter is governed by the Vested Rights Act; or
  2. Other Approvals. Any land development plan or subdivision plat approved by the Town prior to the effective date of this Chapter that is not subject to the Vested Rights Act, S.C. Code Ann. § 6-29-1510, shall expire on the later of (a) a definite expiration date contained in the approval or permit itself, or (b) two (2) years from the date of the approval or issuance of a permit.
- B. If an application for a permit or development approval is submitted before the effective date of this Chapter, but is still pending approval or denial as of that date, the application shall be reviewed and decided, at the applicant's option, wholly in accordance with the requirements of the LMO in effect when the application was accepted, or wholly in accordance with the requirements put into effect by this LMO (but not in accordance with a mix of provisions from both sets of development standards).
  1. If the applicant elects to have the pending application reviewed in accordance with the requirements of the prior LMO, the Town shall review and make a final decision on the application in accordance with any time periods established by the prior LMO. If the application is approved and the approval or subsequent authorization of the approved development expires or becomes invalid (e.g., for failure to comply with time limits or the terms and conditions of approval), any subsequent development of the site shall be subject to the requirements of this LMO.

## **ARTICLE I. INTRODUCTORY PROVISIONS**

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2. To the extent a pending application is approved in accordance with the requirements of the prior LMO and proposes development that does not comply with this LMO, the subsequent development, although approved, shall be legally nonconforming and subject to the requirements of Article IX.

**SECTIONS 5.3.24 through 5.3.29 Reserved**

# ARTICLE I. INTRODUCTORY PROVISIONS

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## DIVISION 3. DEFINITIONS

### SECTION 5.3.30 Purpose

The purpose of this Article is to define words, terms, and phrases contained within this Chapter, unless otherwise specifically defined elsewhere herein.

### SECTION 5.3.31 Word Usage

In the interpretation of provisions in this Chapter, the rules of this section shall be observed and applied, except when the context clearly indicates or requires otherwise:

- A. Words used or defined in one (1) tense or form shall include other tenses and derivative forms;
- B. Words in the singular number shall include the plural number and words in the plural number shall include the singular number;
- C. The masculine gender shall include the feminine and the feminine gender shall include the masculine;
- D. The word "shall" is mandatory;
- E. The word "may" is permissive;
- F. The word "person" includes individuals, firms, corporations, associations, trusts, and any other similar entities or groupings of such entities;
- G. The word "Town" or "Municipality" shall mean the Town of Atlantic Beach;
- H. The term "Planning Commission" or the word "commission" shall mean the Town of Atlantic Beach Planning Commission;
- I. Whenever a number of days is specified in this Chapter, including a permit, condition of approval, or notice provided in compliance with this Chapter, the number of days shall be construed as calendar days unless otherwise specified. Where the last of the specified number of days falls on a weekend, holiday, or other day the City is not open for business, the time limit shall extend to 5:00 p.m. on the following business day; and
- J. In the case of any difference of meaning or implication between the text of this Chapter and any caption, number, illustration or table, the text shall govern, unless otherwise specifically noted herein.

### SECTION 5.3.32 Defined Terms

Except as provided herein, each word or term used in this Chapter has its customary, dictionary definition. For purposes of this Chapter, certain words or terms used by this Chapter are defined below and shall have the meanings ascribed to them.

**Abandon (Abandonment):** The relinquishment of property, a change of use, or the discontinuance in the use of the property, regardless of intent, for a more than 180 consecutive days (see also sign, abandoned and Chapter IX).

**Access:** The right or ability of pedestrians, vehicles, and watercraft to enter and leave property.

# ARTICLE I. INTRODUCTORY PROVISIONS

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**Accessory Use or Building:** A use or building that is subordinate to the principal use or building and which is located on the same lot.

**Adjusted Caliper Inches (ACI):** The number derived from the multiplication of the Tree Value Factor times the actual measured Diameter at Breast Height (DBH) of trees in each respective category of trees.

**Administrator:** The Atlantic Beach Town Manager or his designee.

**Afternoon Peak Hour:** The vehicle trip generation rate during the four (4) highest consecutive fifteen (15) minute intervals between 4:00 and 6:00 p.m. on a weekday. The term afternoon peak hour shall be considered to be synonymous with the term PM Peak Hour, as that term is used in the Institute of Transportation Engineers' Trip Generation manual.

**Alley:** A public or private way, at the rear or side of the property, permanently reserved as a means or providing secondary or service vehicular access to abutting property, less in size than a street, and which is not designed for general vehicular traffic.

**Antenna:** A device, dish, or array used to transmit or receive telecommunications signals.

**Applicant:** A person, developer, or landowner who has submitted an application for review under applicable provisions of this Chapter.

**Application for Development:** Pursuant to the requirements of this Chapter, the appropriate application form and all accompanying documents, exhibits, and narratives pursuant to an applicant's official request for the consideration by the Administrator or appropriate governing body for the granting of any official approval or permission.

**Approved or Approval:** Final action by the governing body or an exhaustion of all administrative remedies that results in the authorization of a site specific development plan.

**Archaeological Resource or Archaeological Site:** Place of past human settlement or activity, where archaeological remains are present, whether known, suspected, or unknown. Sites vary in size and use, examples include burial, campsite (e.g., for temporary hunting or fishing), quarry, mine, industry, fort, pueblo, or rock shelter.

**Automobile Service Station:** Any land, building, structure, or premises used for the sale or retail of motor vehicle fuels, oils, or accessories, or for servicing, installing, or repairing parts and accessories, but not including the repairing of bodies, or fenders of motor vehicles, or painting motor vehicles, and excluding public garages.

**Average Daily Traffic (ADT):** The number of vehicles passing a point on a traffic way during a 24-hour period, usually calculated as the average of two (2) or more days of traffic. Trip generation rates shall be taken from the most current edition of the Institute of Transportation Engineers Trip Generation Manual (ITE Manual).

**Bar:** A facility that sells alcoholic beverages for consumption on the premises and where the dominant source of revenue is from alcohol sales.

**Base Districts:** Zoning districts set forth in this Chapter which cumulatively include all land within the Town of Atlantic Beach. Within these zoning districts, specific permitted uses are designated and densities and other development standards for future development are provided.

**Bedroom:** Any room primarily designed or used for sleeping in a structure.

# ARTICLE I. INTRODUCTORY PROVISIONS

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**Bed and Breakfast:** A commercial development whose outside appearance is that of a residential property with no more than ten (10) guest rooms designed for and occupied by transients renting rooms on a daily basis and usually staying less than seven (7) days. The rooms are connected by internal corridors for access, and unless otherwise expressly allowed, ancillary, uses, and activities shall be prohibited. Food services shall be allowed provided that it is only offered to registered overnight guests.

**Best Management Practices (BMPs):** A practice, or a combination of practices, that are determined to be effective, practical means (technological, economical and institutional) of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. Examples of BMPs include, but are not limited to, road building, spoil management, channel/stream crossings, vegetation control, sediment/erosion control, and buffer zones.

**Board of Zoning Appeals:** The body created by this Chapter to hear and decide requests for appeals, variances, and special exceptions pursuant to S.C. Code §6-29-789 et seq.

**Boarding House:** A building, other than a hotel, motel, or apartment house, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three (3) or more persons.

**Buffer:** An area consisting of landscaping, walls, fences, or berms designated to ensure protection against real or potential incompatibility between adjoining land uses of different types and/or intensities of development.

**Buffer Strip:** A suitable planting, screen fence, or wall at least six (6) feet in height above finished grade achieving an opacity of not less than 75% for plantings and 95% for fences and walls.

**Buildable Area:** That portion of any lot which may be used or built upon in accordance with the regulations governing the given zoning district within which the particular lot is located once the various front, side, and rear yard requirements for that district have been subtracted from the total area.

**Building:** Any structure having a roof supported by columns or walls for the shelter of persons or property.

*Principal Building.* A building in which is conducted the main or principal use of the lot on which said building is located.

*Accessory Building or Use.* A subordinate building or use, the use of which is incidental to and customary in connection with the principal building or use, and which is located on the same lot with such principal building.

**Building Alteration:** Any change in the supporting members of a building (such as bearing walls, columns, or girders), any addition to or reduction of a building, or any change in use or any relocation of a building from one (1) location or position to another.

**Building Coverage:** The horizontal area measured within the outside of the exterior walls of the ground floor of all principle and accessory buildings on the lot expressed as a percentage of gross lot area.

**Building or Structure Height:** The highest vertical distance measured from the highest finished grade within five (5) feet of the structure to the highest point of a structure (see Section 5.3.430).

**Building Inspector:** The official designated by the Town to issue building permits, conduct inspections, issue certificates of occupancy, and take appropriate enforcement actions under the terms of the building code.

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**Building Line:** A line that defines the distance a structure shall be set back from a lot boundary line or a street right-of-way. In all cases, the building lines of a lot shall run parallel to right-of-way lines and lot boundary lines.

**Building Permit:** A permit issued in accordance with the Town's Building Code.

**By Right:** Land uses that are permitted in a zoning district without requiring a conditional use or special exception review.

**Caliper Inches:** Quantity in inches of the diameter of supplemental and replacement trees measured at a height of four (4) inches above the root ball.

**Capital Improvements Program:** The plan for public capital improvements within the Town which has most recently been approved by the Town Council.

**Clinic:** An establishment where patients are not lodged overnight but are admitted for examination and treatment by a group of physicians or dentists practicing medicine.

**Conditionally Approved or Conditional Approval:** An interim action taken by the governing body that provides authorization for a site specific development plan or a phased development plan but is subject to approval.

**Condominium:** A building and property arrangement (horizontal property regime) allowing for the individual ownership of a particular apartment in a building and the common right to a share, with other co-owners, in the general and limited common elements of the property.

**Congregate Residence:** Any building or portion thereof which contains facilities for living, sleeping, and sanitation and may include facilities for eating and cooking for occupancy other than a family. A congregate residence includes a shelter, convent, monastery, dormitory, and fraternity or sorority house, but does not include group care and rehabilitation facilities, jails, hospitals, nursing homes, hotels, motels, inns, bed and breakfasts, and similar lodging houses.

**Density:** The number of dwelling units permitted per gross acre of land.

**Design Modification:** A lawful deviation from the land development standards of this Chapter, where approved by the Planning Commission subject to the findings and limitations imposed by Article X.

**Destroyed Beyond Repair:** Substantial damage to an use, structure, feature, or sign (see Substantial Damage).

**Duplex:** See Dwelling, Two-Family.

**Dwelling:** A building designed or used as the permanent living quarters for one (1) or more families.

*Dwelling, Single-Family.* A building designed for or occupied exclusively by one (1) family. This term includes single-family attached residences and single-family detached residences.

*Dwelling, Single-Family Attached.* A structure containing more than one (1) single-family dwelling unit in which the units are physically attached, and each has its own separate exterior entrance way and a separately owned lot.

*Dwelling, Single-Family Detached.* A structure containing one (1) dwelling unit that is free standing.

*Dwelling, Multi-family.* A building containing three (3) or more dwelling units on a single lot.

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*Dwelling, Two-Family (Duplex).* A building, located on a single lot, designed for or occupied exclusively by two (2) families living independent of each other in separate dwelling units.

*Dwelling Unit.* A building, or portion thereof, providing complete and permanent living facilities for one (1) family.

*Dwelling Unit, Divisible.* A dwelling unit containing a bedroom with a bath and its own separate entrance, and which can be locked-off from the remainder of the dwelling unit and separately rented. Each dwelling unit may contain no more than one (1) lock-out room.

*Family Housing Development.* The grouping of single-family detached dwelling units on a single lot.

*Town House.* A row of three (3) or more attached, single-family dwellings with each built with similar architectural treatment, separated by vertical divisions termed party or lot-line walls, and each having a private entrances (usually both front and rear).

**Earthwork:** Construction made of excavated, piled, and/or compacted soil, sometimes with rocks, such as a mound, pyramid, fortification, housepit, ditch, or embankment.

**Easement:** An interest in land of another that entitles the holder to a specified limited use.

**Eating Establishment, High Seating Turn-Over:** A sit-down eating establishment with turnover rates generally of less than one (1) hour. Generally, these restaurants serve breakfast, lunch and dinner. This type of restaurant is often moderately priced, and frequently belongs to a restaurant chain.

**Eating Establishment, Low Seating Turn-over:** A sit-down eating establishment generally of high quality with turnover rates generally of more than one (1) hour. Generally, these restaurants do not serve breakfast, and many serve only dinner.

**Endangered Species:** Those plant and animal species that are under the protection of state and/or federal law.

**Enhancement:** The increase in one (1) or more values of all or portion of an existing wetland by man's activities.

**Entertainment Establishments:** Establishments primarily engaged in the operation of amusement or entertainment services to the general public upon the payment of a fee or admission charge.

**Evergreen:** Those trees, including broad-leaved and conifer evergreens, which maintain their leaves year-round.

**Facade:** A structure's entire single elevation, including wall face, parapet, windows, doors, awning, or canopy.

**Fair Market Value:** The price of a building or land that would be agreed upon voluntarily in fair negotiations between a knowledgeable owner willing, but not forced to sell and a knowledgeable buyer willing, but not forced to buy.

**Family:** One (1) or more persons occupying a premise and living together as a single housekeeping unit.

**FDD Design Plan:** The design component of a proposed FDD floating zone, drawn to scale and prepared by a licensed design professional, which illustrates applicable district bulk, dimensional, and

# ARTICLE I. INTRODUCTORY PROVISIONS

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density standards, as described in Table 5.3.461A, including proposed buildings, structures, lot features, and public amenity features.

**FDD District Standards:** The FDD zoning text and design plan that, when adopted by the Council, in accordance with the LMO, form the zoning requirements governing future development in FDD floating zone districts.

**FDD Floating Zones:** Rezoning by legislative action of Town Council, which apply the floating zones authorized by this chapter to a particular parcel or parcels, which meet the requirements of this division and Section 6-29-720(C)(2), S.C. Code Ann.

**FDD Zoning Text:** Written standards adopted by legislative action of the Town Council that establish zoning requirements within a proposed FDD and FDD district standards

**Filling:** Any activity which increases ground surface or substrate elevation. Activities in this category include, but are not limited to, sedimentation and dumping.

**Finish Grade:** The resultant elevation of land following alteration as part of a development activity. (See also "Grade" and "Pre-Development Grade")

**Floating Zone:** The zones described in the text of Article IV and adopted by legislative action of the Town Council, but which are unmapped unless a property owner petitions the Town Council to have the floating zone applied to a particular parcel meeting the minimum zoning district area requirements of this Chapter through action by the Town Council, as authorized by S.C. Code 6-29-720(C)(2).

**Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or from rain.

**Flood Hazard Area:** That area designated by the Federal Flood Insurance Administration on the official flood hazard area map(s), subject to a one (1) percent or greater chance of flooding in any given year.

**Floor Area, Net:** The square feet of floor space within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. It does not include porticoes, garages, or space in a basement or cellar when said basement or cellar space is used for storage or incidental uses.

**Frontage:** The side of a lot that abuts a street; the front lot line.

**Foot Candle:** A unit of incident light (on a surface) stated in lumens per square foot and measurable with an illuminance meter, a.k.a. foot candle or light meter. One (1) foot candle is equal to one (1) lumen per square foot.

**Garage, Private:** A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises.

**Garage, Repair:** A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term "repairing" shall not include an automotive body repair shop, nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

**Governing Body:** The body authorized by statute or ordinance to make land use decisions. For the purposes of this Chapter the governing body varies depending on the application and decision type. As used herein, the governing body may include (but is not limited to) the Atlantic Beach Town Council,

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the Planning Commission, the Board of Zoning Appeals, and where delegated by ordinance, the Administrator.

**Grade:** The elevation of land above Mean Sea level (MSL). (See also "Finish Grade" and "Pre-Development Grade")

**Graphics:** Any drawing, symbol, picture, motif, or logo displayed on a sign face.

**Gross Acre:** All land under single title or ownership or one (1) ownership entity and recorded with the property deed and consisting of contiguous acreage or, in the case of a planned development, noncontiguous acreage.

**Gross Floor Area:** The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns, or other features, exclusive of areas open and unobstructed to the sky.

**Ground Water:** That portion of water below the ground surface that is under greater pressure than atmospheric pressure.

**Habitable Space (Room):** Area in a structure for living, sleeping, eating, or cooking. Maintenance or utility space, parking garages, and similar areas are not considered habitable space.

**Habitable Story:** A story that contains habitable space. A story used solely for parking and/or limited storage is not considered as a habitable story.

**Hard Surface Space:** As applied to parking space, an area covered with durable material, whether pervious or impervious such as concrete, macadam, asphalt, brick or tile, oyster shell, or the like, and capable of bearing the weight of passenger or commercial vehicles, as applicable.

**Hazardous Substance:** Such chemicals, elements, mixtures, solutions, or substances as are defined as hazardous wastes, hazardous substances, pollutants or contaminants, toxic wastes, or toxic substances by the Comprehensive Environmental Responsibility, Compensation and Liability Act of 1980, as amended (CERCLA); the Superfund Amendment and Re-authorization Act of 1976, as amended (SARA); the Resource, Conservation and Recovery Act of 1976, as amended (RCRA); and the Toxic Substances Control Act, as amended (TSCA).

**Herb Layer:** All soft-bodied (i.e., herbaceous) plants growing beneath the shrub layer.

**Historic Resources:** Buildings, sites, objects, structures, and districts usually fifty (50) years old or older that are associated with significant historical events, people, methods of construction, and that may yield important archaeological information.

**Home Occupation:** Any occupation within a dwelling and clearly incidental thereto, carried on by a member of the family residing on the premises, provided that no person not a resident of the premises is employed, no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or household purposes, and there is no exterior indication other than a sign permitted by the district regulations, that the building is being used for any purpose other than a dwelling. When within the above requirements, a home occupation includes but is not limited to the following: (a) art studio; (b) dressmaking; (c) beautician; (d) professional office of a lawyer, engineer, architect, accountant, salesman, real estate agent, insurance agent, or other similar occupation; and (e) teaching, with musical instruction limited to one (1) or two (2) pupils at a time.

**Hotel:** A commercial building with guest rooms for sleeping designed for and occupied by transients renting rooms on a daily basis and usually staying less than seven (7) days. A hotel shall include a

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lobby and 24-hour reception desk, a common kitchen and a full-service dining room to provide meals for paying guests, 16-hour room service, conference rooms with a minimum of forty (40) square feet per guest room, and a full range of guest amenities including, at minimum, a swimming pool.

**Hydric Soil:** A soil that is saturated, flooded, or ponded long enough during growing season to develop anaerobic conditions that favor the growth and regeneration of hydrophytic vegetation. Hydric soils that occur in areas having positive indicators of hydrophytic vegetation and wetland hydrology are wetland soils.

**Hydrophytic Vegetation:** The sum total of macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. When hydrophytic vegetation comprises a community where indicators of hydric soils and wetland hydrology also occur, the area has wetland vegetation.

**Impervious Surface:** A surface which does not absorb or percolate water. It includes all buildings, and asphalt or concrete parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt and/or any water bodies.

**Impervious Surface Area:** All non-vertical land within a lot containing impervious surfaces, expressed as a percentage of gross lot area.

**Improbable Areas:** Geographic areas where established settlement patterns are unlikely to indicate habitation.

**Improvement:** The construction of buildings and the establishment of basic services and amenities associated with the development activity including, but not limited to, streets and sidewalks, parking areas, water and sewer systems, drainage system, property markers and monuments, recreation facilities (i.e., lakes, swimming pools, tennis courts, golf courses, riding stables, club houses, cabanas, marinas, docks, and the like), and other similar construction or establishment.

**In-Kind Replacement:** Providing or managing substitute resources to replace the functional values of the resources lost, where such substitute resources are also physically and biologically the same or closely approximate those lost.

**Inn:** A commercial building with no more than twenty-five (25) guest rooms designed for and occupied by transients renting rooms on a daily basis and usually staying less than seven (7) days. The rooms are connected by internal corridors for access.

**Interval Occupancy (Time-Sharing):** The use, occupancy, or possession of real property whereby the use, occupancy, or possession circulates among individuals on a periodically recurring basis, is inherently transient, and is subject to either an interval occupancy sales or lease program and includes, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership, or vacation bond.

**Interval Occupancy Lease Plan:** An arrangement, plan, or similar device, whether by membership agreement, lease, rental agreement, license, use agreement, security, or other means, whereby the purchaser or an individual receives a right to use residential accommodations or facilities, or both, but does not receive an undivided fee simple interest in the property, for a specific time period during any given year, but not necessarily for consecutive years, and which extends for a period of more than one (1) year.

**Interval Occupancy Sales Plan:** Any arrangement, plan or similar device, whether by tenancy in common, sale, deed, or by other means, which is subject to supplemental agreement or contract for use

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of the residential unit, whereby the purchaser receives an undivided occupancy interest in and the right to use the accommodations or facilities, or both, for a specific period of time during any given year, but not necessarily for consecutive years, and which extends for a period of more than one (1) year.

**Interval Occupancy Unit:** The actual residential accommodations and related facilities that are the subject of the interval occupancy, interval occupancy lease plan, or interval occupancy sales plan.

**Inundation:** A condition in which water from any source temporarily or permanently covers a land surface.

**Inverted Crown Section:** A road or street cross section where the center of the road or street profile is lower than the edges to allow for storm water to drain toward the center of the road or street for removal through a storm water drainage system.

**Junk or Salvage Yards:** The use of premises for open storage of old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, scrap building material, scrap contractors equipment, tanks, cases, cans, barrels, boxes, drums, pipes, bottles, glass, old iron, machinery, rags, paper, excelsior, mattresses, beds, or bedding, or any other kind of scrap or waste material.

**Land Development:** The changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sales, lease, or any combination of owner and rental characteristics.

**Landscaping Plan:** A detailed plan denoting the location, size, and type of existing protected and specimen trees and all other trees with a diameter at breast height of eight (8) inches and greater, the location of trees to be removed, and the location, size and type of trees to be replanted as part of a development project.

**Legally Established:** Any land use, development, building, structure or site, including any lot of record, which was established, constructed, used or recorded pursuant to, and in conformance with all relevant requirements of the ordinances then in effect.

**Legally Maintained:** As used in this Chapter, the phrase "legally maintained" shall mean that any and all conditions, obligations and requirements of any permit, approval, or certificate of any description issued by Horry County, South Carolina or the Town of Atlantic Beach, shall have been met within the time frame, if any, required by such permit, approval or certificate, or that the permit, approval, or certificate has been fully executed according to its terms.

**Legal Protection:** A legally-binding agreement that specifically preserves a wetland mitigation area for a duration of time. Legal Protection includes, but is not limited to, deed restriction, covenant, conservation easement, or gift to a conservation group or land trust.

**Level of Service (LOS):** A qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

**Lined Channels:** The use of metal, concrete, stone, asphalt, or similar materials to define a drainage channel.

**Littoral Vegetation:** Vegetation found off, on, or along the shore of surface water.

**Loading Space, Off-Street:** An area logically and conveniently located for pickups and deliveries off the street right-of-way, scaled to delivery vehicles expected to be used, and accessible to such vehicles.

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**Lock-Out Room:** (See "Divisible Dwelling Unit")

**Lot:** A parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

**Lot, Corner:** A lot abutting on two (2) intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed 135 degrees.

**Lot, Double Frontage:** A lot that fronts on two (2) parallel streets or that fronts upon two (2) or more streets that do not intersect at the boundaries of the lot.

**Lot, Flag:** A lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

**Lot, Interior:** A lot, other than a corner lot, that fronts on only one (1) street.

**Lot, Irregular:** A lot whose opposing property lines are generally not parallel, such as a pie-shaped lot on a cul-de-sac, or where this side property lines are not parallel to each other.

**Lot of Record:** A lot that existed and was described and defined as part of the public land record prior to the date of adoption of this Chapter.

**Maintenance:** Any activities required to assure successful restoration after a project has begun (i.e. erosion control, water level manipulations).

**Manmade Water Body:** Any pond, lake, lagoon, channel, wetland, marina, or basin which ordinarily or intermittently contains water and which has a discernible shoreline and is the result of development.

**Manufactured Housing (Manufactured Home):** A factory-built, single-family structure that is manufactured under the authority of 42 USC Section 5401 and is transportable in one (1) or more sections, is built on a permanent chassis, but is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and does not have wheels or axles permanently attached to its body or frame.

**Manufactured Housing Park:** A parcel of land under single ownership (which may include multiple names or assignees) on which two (2) or more manufactured homes are located.

**Marina:** A harbor, boat basin, or other facility which provides storage or docking facilities, supplies, or other services for watercraft, including facilities for storing watercraft in or out of the water, but excluding storage of watercraft at a private dock associated with a residential unit or on private property where no fee is charged.

**Maritime Forest:** Woodlands growing on high ground adjacent to the marshfront or waterfront. Trees and shrubs here are specially adapted for survival in sandy soil, dune-swale topography, and strong sea-breezes laden with salt-spray and sand.

**Material:** The adjective "material" as contained herein shall be construed to mean objective, substantive, tangible, and consequential.

**Mean High Water Line:** A line which marks the average uppermost inland reach of the tidal fluctuation during periods of high tide.

**Mining:** The act or process of digging, dredging, excavating, or tunneling for the purpose of removing or depositing some natural material.

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**Mixed Use:** An arrangement of different uses on a lot or within a unified development plan comprised of housing which may include different types and densities or accommodations uses and entertainment, recreation, and dining uses or commercial, office, or professional uses. (Note: See the definition of Planned Development when applying the requirements for mixed use as part of the PD standards of this Chapter).

**Mobile Home:** A transportable, factory-built structure that was manufactured prior to enactment of the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Section 5401) and that is designed to be used as a single dwelling unit.

**Mobile Home Park:** A tract of land on which two (2) or more mobile homes are located or intended to be located.

**Mobile Home Subdivision:** A subdivision designed and intended for residential use, where residence is exclusively in mobile homes.

**Modular Housing:** Factory built housing constructed in accordance with the standards set forth in the South Carolina Modular Buildings Act, and bearing a label of compliance with the Act (Title 23, Chapter 43). Modular homes shall be subject to the same standards as site-built homes.

**Motels:** A commercial building with guest rooms for sleeping, a reception desk, and a lobby. The rooms shall be primarily designed for and occupied by transients renting rooms on a daily basis and usually staying less than seven (7) days. Motels generally provide individual parking spaces near each room for paying guests.

**Motorized Watercraft:** Any boat or other type of vessel propelled by any type of electric, internal combustion, or other type of engine.

**Natural Water Body:** Any pond, lake, channel, wetland, marsh, creek, sound, or ocean which ordinarily or intermittently contains water and which has a discernible shoreline and is not the result of development.

**Neighborhood:** Sub-areas of the Town within which there are similarities in character, such as land use, development patterns, natural features, or socio-economic attributes.

**Net Acre:** The portion of contiguous acreage under single title or ownership and recorded with the property deed that is devoted to a specific primary use and its direct accessory uses such as traffic access, parking, buffers, setbacks, open space, and fresh water wetlands but excluding tidal wetlands.

**Nightclub:** An establishment in which the principal business involves (a) the sale of alcoholic beverages for consumption on the premises, and (b) the provision of live or televised entertainment or dancing.

**Nonconformity (Legal):** Any land use, development, structure or site, including any lot of record, that was legally established, but that is not presently in full compliance with the provisions of this Chapter.

**Nonconforming Building or Structure:** Any building or structure that lawfully existed prior to the enactment or amendment of this Chapter, but which does not comply with the requirements of this Chapter including, but not limited to, requirements regulating height, bulk, setback from any lot line or from the street, building coverage, or building design. This term also includes any building or structure that fails to conform to any applicable provision of an approved development plan as to height, bulk, setback from any lot line or from the street, building coverage, building size, or building design.

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**Nonconforming Feature:** A characteristic of a building or property, such as illumination, parking, landscaping, performance standards, or certain requirements applicable to a conditional use or special exception, that lawfully existed prior to the enactment or amendment of this Chapter, but which does not comply with the requirements of this Chapter.

**Nonconforming Sign:** Any sign that lawfully existed prior to the enactment or amendment of this Chapter, but which does not comply with the requirements of this Chapter.

**Nonconforming Lot of Record:** Any lot of record which was legally established, but which fails to conform to the applicable size or dimensional requirements set forth in this Chapter or in any applicable and approved development plan.

**Nonconforming Use:** Any legally established activity using land, buildings, or structures which was legally established, but which fails to conform in any respect to an applicable use requirement set forth in this Chapter, in any applicable and approved development plan, or in any permit issued hereunder.

**Nursing Home:** A home for the aged or infirmed, in which three (3) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**Office Facilities:** A place for the transaction of business where reports are prepared, records kept, or services rendered, but where little or no retail sales are offered and where no manufacturing, assembling or fabricating takes place.

**One Hundred Year Flood:** The flood, or level of floodwater measured from mean sea level that has a one (1) percent chance of being equaled or exceeded in any given year. The area of flood inundation may also be referred to as the “Area of Special Flood Hazard”.

**On-Site:** On or within the area specified in the development permit application or within other areas which, pursuant to this Chapter, may be included in defining the site's said referenced purpose.

**Open Space:** Land area not covered by buildings, parking areas, or other accessory structures.

**Open Space, Common:** Noncommercial land not occupied by buildings, parking lots, or structures that has been set-aside, reserved, or dedicated for public use or for the general use and enjoyment of residents, employees, or patrons of a development. Open spaces are planned and clearly delineated areas. Open space may contain improvements (and incidental impervious surfaces) such as swimming pools, pedestrian walkways, boardwalks, play equipment for children or adults, ball fields, court games, picnic tables, etc. when included as part of an approved planned development or flexible design district. Active and passive parks are considered open space. Open space does not include required yards or isolated (noncontiguous) areas of less than 500 square feet.

**Operating Conditions:** The calculated ability of roadway intersections to manage the demands made by vehicles within the intersection area during a given period of time.

**Ornamental:** Any tree including, but not limited to, those representative species listed in Section 5.3.669.

**Overlay Zoning Districts:** Zoning districts which extend on top of one (1) or more base zoning districts and are intended to protect certain critical features and resources. Where the standards of the overlay and base zoning district differ, the more restrictive standard shall apply.

**Overstory:** Those trees that compose the top layer or canopy of vegetation.

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**Parcel:** (See "Lot")

**Park, Community:** Public, noncommercial areas usually along an unusual feature of land such as marshes, tidal creeks and rivers, wooded wetlands, and similar natural features. These areas should be of natural or ornamental quality for outdoor recreation. Community parks are predominately passive, but may include limited active facilities such as bike trails, playgrounds or other unorganized activities, exhibitions, festival facilities, and similar amenities.

**Park, Neighborhood:** Public, noncommercial areas easily accessible to neighborhood population and geographically centered within safe walking and biking distance. Neighborhood parks provide facilities for all ages, passive as well as active, such as play equipment, open space for games, paved game area, ball field, and landscaped areas. Amenities provided should be determined based on the needs of the neighborhood served.

**Park, Recreation Complex:** Public, noncommercial areas for active games such as baseball, softball, soccer, tennis, basketball, and volleyball. This use also include a swimming pool as well as passive areas for activities such as walking, sitting, and picnicking. Playgrounds may be provided as an ancillary facility with adequate landscaping and parking. A maintenance building may also be provided.

**Park, Special Purpose:** Properties that primarily provide open space for a single or specialized purpose. Examples include beach parks, boat landings, canoeing and kayaking trails, archaeological sites, nature preserves, equestrian facilities, boardwalks, observation decks, and similar uses.

**Parking Bay:** The section of a parking facility containing a driving aisle and one (1) or two (2) rows of parking spaces.

**Parking Lot:** Any public or private open area used for the express purpose of storing automobiles and other vehicles on a temporary basis.

**Parking Space, Off-Street:** The storage area for one (1) automobile, plus the necessary access space, which is located outside the street right-of-way.

**Parking Space, On-Street:** The storage space for an automobile that is located within the street right-of-way.

**Peak Flow (for Runoff):** At the time of greatest runoff concentration, the volume and velocity in cubic feet per second being discharged at a given point.

**Peak Hour Traffic:** The number of vehicles passing a point on a traffic way during the highest volume hour of the day.

**Person:** Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicator, branch of government, or any group or combination acting as a unit.

**Personal Watercraft:** A boat less than sixteen (16) feet in length which is propelled by either an outboard or inboard motor that uses an internal combustion engine powering a water jet pump or propeller-driven motor as its primary source of propulsion and is designed to permit the operator and passenger to ride on the outside surfaces of the vessel.

**Pervious Surface:** A surface which allows natural passage of air and water through it. It includes natural earth surfaces as well as some forms of porous paving such as oyster shell and gravel, and it is

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not covered by manmade materials or structures such as buildings or paving. (See also "Impervious Surface")

**Planned Development (PD):** A zoning district, created under the terms of this Chapter, to be comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and other mixed uses. A planned development district is established by a map and text amendment to this Chapter and is characterized by a unified master plan that outlines the extent and location of permitted development within a district.

**Planning Commission:** The body created by the Town Council pursuant to S.C. Code 6-29-310 et seq.

**Portable Storage Unit:** A portable, weather resistant receptacle designed and used for storage or shipment of household goods, wares, building materials, or merchandise.

**Pre-Development Conditions:** Those conditions which existed before alteration, resulting from human activity, or the natural topography, vegetation, and rate, volume, or direction of surface or groundwater flow as indicated by the best available historical data.

**Pre-Development Grade:** The grade as determined by the natural topography that existed before alteration, as indicated by the best available historical data. (See also "Grade" and "Finish Grade")

**Premises:** A lot, including the buildings or structures thereon.

**Preservation:** In the context of this document, preservation means to keep wetland functions and values in a natural and/or unaltered state. Preservation is best achieved through wetland avoidance, maintenance, and legal protection.

**Primary Dune:** The major front sand dune immediately behind the beach.

**Principal Use:** The main or primary use to which land or a structure is put.

**Probable Site:** Geographic areas where established settlement patterns are likely to indicate habitation.

**Property:** An area designed as a separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed as filed in the official land records of the county.

**Property Owner:** A person, company, agency, and/or corporation who holds legal title to a property or the authorized agent of such a person.

**Public Amenity Feature:** A category of public amenity listed in Section 5.3.463 or described in the 2007 *Atlantic Beach Master Plan*, proposed by an FDD applicant, amounting to at least one (1) percent of total development costs, and maintained for public use. "Public amenity features" do not include public improvement dedications.

**Public Improvement:** Any drainage ditch, storm sewer, or drainage facility, sanitary sewer, water main, street, sidewalk, pedestrian way, tree, lawn, parking area, park, open space, building, lot improvement, or other facility for which the government may ultimately assume the responsibility for maintenance and operation or for which the government's responsibility is already established.

**Public Improvement Dedications:** A public improvement contribution or funding required as a condition of approval by this Chapter.

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**Public Way:** Any street, highway, road, pathway, beach or waterway, whether privately or publicly owned, which is designed, or used for outdoor vehicular, watercraft, or pedestrian traffic either by public right or custom, or by invitation of one (1) or more owners.

**Receiving Waters:** Any water bodies, watercourses, or wetlands into which surface waters flow either naturally, in manmade ditches, or in a closed conduit system.

**Recreational Vehicle:** Any of the following vehicles designed for travel, recreation, and vacation uses: motorhome or van (a portable, temporary dwelling constructed as an integral part of a self-propelled vehicle); pickup camper (a structure designed to be mounted on a truck chassis); recreational trailer (a portable structure built on a single chassis, 400 square feet or less when measured at the largest exterior horizontal projections); park trailer (a semi-portable structure built on a single chassis, which does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to USDHUD standards); or tent trailer (a canvas or synthetic fiber folding structure mounted on a hard body base and towed by a vehicle).

**Replacement Planting:** The planting of trees on a site that before development had more than the minimum standard of trees, and after development had less than the minimum standard of trees per acre of pervious surface.

**Restoration:** Returned from a disturbed or totally altered conditions to a previously existing natural or altered condition by some action of man.

**Retail:** Individual business establishments selling goods or services to customers over the counter for personal or household consumption. This use may include accessory on-premises storage of retail supplies and goods for restocking and immediate onsite sale.

**Retention:** The collection and storage of runoff without subsequent discharge to surface waters.

**Right-of-Way:** Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility, or other public purpose. The term "right-of-way" differs from the term "easement"; whereas, except for existing streets located on prescriptive easements, rights-of-way as defined herein are characterized by fee simple ownership.

**Roof Pitch:** The slope of a building's roof expressed as the vertical rise divided by its horizontal span. Residential structures shall have a minimum roof pitch of 6/12.

**Room:** (See "Habitable Space")

**Satellite Dish:** A device used to transmit and/or receive radio or electromagnetic waves between terrestrial and orbital based uses.

**Saturated Soil Conditions:** A condition in which all easily drained voids (pores) between soil particles in the root zone are temporarily or permanently filled with water to the soil surface at pressures greater than atmospheric.

**Screening:** A six (6) feet high (minimum) sight obscuring fence, wall, or continuous vegetative planting having an opacity of not less than eighty (80) percent.

**Secondary Dune:** A sand dune occurring behind the primary dune.

**Sediment:** Fine particulate material, whether mineral or organic, that is temporarily in suspension or has settled to the bottom of a water body.

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**Setback:** A required minimum distance from a property line (unless otherwise specified) defining the limits within which no building or structure, not otherwise exempted by this Chapter, shall be located.

**Sexually Oriented Business (SOB):** Sexually oriented business shall mean an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual device shop, sexual encounter center, or any other business, such as an adult car wash or adult health club, which offers, for consideration, materials or services characterized as depicting “specified sexual activities” or “specified anatomical areas”, or whose employees perform services in a state of nudity or semi-nudity.

*Adult Arcade.* Any place in which the public is permitted or invited wherein, coin-operated or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at a time, and where the images so displayed are distinguished or characterized by depicting or describing “specified sexual activities” or “specified anatomical areas”.

*Adult Bookstore or Adult Video Store.* A commercial establishment which, as one of its principal business purposes, offers for sale or rental (for any form of consideration) adult media. (1) As used in this definition, “principal business purpose or purposes” means the commercial establishment has a substantial portion of its displayed merchandise which consists of said items; or has a substantial portion of the wholesale value of its displayed merchandise which consists of said items; has a substantial portion of the retail value of its displayed merchandise which consists of said items; or derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items; or maintains a substantial section of its interior business space for the sale or rental of said items. (2) As used in this definition, “substantial” means twenty-five (25) percent or more.

*Adult Cabaret.* A nightclub, bar, restaurant, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features:

1. Persons who appear in a state of nudity or semi-nudity; or
2. Live performances which are characterized by exposure of “specific anatomical areas” or by “specified sexual activities”; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or specified anatomical areas”.

*Adult Car Wash.* A car wash where some or all of the employees are semi-nude or nude and/or where “specified sexual activities” occur or “specified anatomical areas” are exhibited.

*Adult Health Club.* A health club where some or all of the employees are nude or semi-nude and/or where “specified sexual activities” occur or “specified anatomical areas” are exhibited.

*Adult Media.* Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes or compact discs, video reproductions, slides, or other visual representations, which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas”.

*Adult Motel.* A hotel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

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3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

*Adult Motion Picture Theater.* A commercial establishment where for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”. As applied in this Chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

*Adult Theater.* A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified sexual activities” or “specified anatomical areas”. This definition does not include a professional or community theater, or a theater affiliated with an institution of higher education, that produces works of dramatic arts in which actors or actresses occasionally appear onstage in a state of semi-nudity, nudity, or in any state of undress as part of his or her dramatic role.

*Characterized By.* To describe the essential character or quality of an item, activity, or thing.

*Escort.* A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately perform a striptease for another person.

*Escort Agency.* A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, or other consideration.

*Establishment.* Includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business; or
2. The conversion of an existing business, whether or not it is sexually oriented, to any sexually oriented business; or
3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

*Nude Model Studio.* Any place where a person who appears in a state of nudity or displays “specified anatomical areas” may be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. This definition does not include art demonstrations or class offered by an accredited college, university, or non-profit organizations such as a museum, gallery, artist association, or arts cooperative.

*Nudity Or A State Of Nudity.* The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage, or the showing of the bare female breasts. This definition does not include the act of a female breast-feeding a child in a public place; nor to infants or toddlers in a public place, nor to exposure of the human female breast above a horizontal line across the top of the areola exhibited by a dress, blouse, shirt, or other similar apparel; nor to exposure of cleavage of the human female breast exhibited by a dress, blouse, shirt, or similar wearing apparel.

*Person.* An individual, proprietorship, partnership, corporation, association, or other legal entity.

*Premises.* The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon including, but not limited to, the sexually oriented business structure, the grounds, private walkways, and parking areas under the ownership, control, or supervision of the sexually oriented business.

# ARTICLE I. INTRODUCTORY PROVISIONS

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*Semi-Nude.* A state of dress in which clothing covers not more than the genitals, pubic region and areola of the female breast, as well as portions of the body, supporting straps, or devices.

*Sexual Device Shop.* A commercial establishment that offers for sale: 1. Any two (2) of the following categories: 1) adult media, 2) lingerie; or 3) sexual devices; and combination thereof constitutes more than ten (10) percent of its stock in trade or occupies more than ten (10) percent of its interior business space; 2. More than five (5) percent of its stock in trade consists of sexual devices; or 3. More than five (5) percent of its interior business space is used for the display of sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services.

*Sexual Device.* Any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus, or for sadomasochistic use or abuse of oneself or others, and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or preventing pregnancy.

*Sexual Encounter Center.* A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nudity.

*Specified Anatomical Areas.* The human genitals, pubic region, buttocks; the female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified Sexual Activities.* Any of the following: (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) Actual or simulated intercourse, oral copulation, masturbation or sodomy; or (3) Excretory functions as part of or in connection with any of the activities set forth in parts (1) through (2) of this definition.

**Shopping Center:** A group of three (3) or more commercial establishments built on a site which functions as an operating unit.

**Shrub Layer:** All woody and fibrous plants growing beneath the understory.

**Sight Triangle:** A triangular area abutting two (2) intersecting streets or the intersection of a street and a driveway, where vision shall be unobstructed. The sight triangle is formed by a line connecting the points along the intersecting street lines which represent the distance from the intersection of the unobstructed vision.

**Sign:** See Article VII.

**Site:** A lot or lots occupied or planned for occupation by structures or a set of structures and supporting improvements.

**Site Specific Development Plan:** A development plan submitted to the governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or

# ARTICLE I. INTRODUCTORY PROVISIONS

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properties. The plan may be in the form of, but is not limited to, the following plans or approvals: planned developments; preliminary and final subdivision plats; variances; conditional use or special exception permits; zoning permits; site plans; or other land use approvals required under this Chapter.

**Slope:** The existing or natural incline of land expressed in vertical distance per unit of horizontal distance.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there be no floor above it, then the space between such floor and the ceiling next above it. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story. A mezzanine floor of less than one-hundred (100) square feet shall not be deemed a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

**Street:** A vehicular way which may also serve in part as a way for pedestrian traffic, whether called a street, avenue, boulevard, highway, thoroughfare, parkway, road, lane, or otherwise designated, including the entire area within the right-of-way. Except where the term “private street” is used by this Chapter, the word “street” shall mean a “public street”.

*Street, Private.* A street which has not been dedicated and accepted for public use by a governmental entity.

*Street, Public.* A street which has been dedicated or otherwise established for public use and is maintained by the federal, state, county, or town government. As applied to the term “subdivision” as defined herein, the term “public street” or “street” also includes drainage and utility easements, water and/or sewer mains, ditches, culverts, storm water basins and storm sewers, and similar street or right-of-way appurtenances. Public streets are further classified as:

- a. *Local street* shall mean a street used primarily for providing direct access to abutting property.
- b. *Collector street* shall mean a street designed to carry medium volumes of vehicular traffic, provide access to the major street system and collect the traffic from the intersecting local streets.
- c. *Arterial street* shall mean a street designated primarily for the movement of large volumes of traffic from one (1) area to another. Such streets are usually numbered state or federal highways. Arterial streets are further classified as major and minor. US 17 in the Town of Atlantic Beach is classified as a major arterial street. For the purposes of this Chapter, 30<sup>th</sup> Avenue South, 31<sup>ST</sup> Avenue South, 1<sup>st</sup> Avenue, and 2<sup>nd</sup> Avenue are classified as minor arterial streets.

**Structure:** Anything constructed, erected, or established including, but without limiting, the generality of the following: buildings, signs, trailers, fences, screened enclosures, patio walls, backstops, and sun decks for similar activities.

**Structure Alteration:** Any change to the supporting members of a structure including foundation, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

**Subdivision:** All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within

# ARTICLE I. INTRODUCTORY PROVISIONS

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a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record. Subdivisions are further classified by this chapter as major, minor, or excepted.

1. *Major subdivision* shall mean all divisions of a tract or parcel of land into six (6) or more lots, building sites, or other divisions and includes all divisions of land involving a new street or a change in existing streets, and includes re-subdivision. All divisions not constituting a minor subdivision or excepted subdivision, as defined by this Chapter, are considered major subdivisions.
2. *Minor subdivision* shall mean a division of a tract or parcel into no more than five (5) lots, including the parent parcel, where such division does not create a new street or change an existing street.
3. *Excepted subdivision* shall mean a property division, combination, and/or recombination where no formal review or approval is required pursuant to §6-29-1110 of the state code, subject to the requirements contained in Article III of this Chapter. Excepted subdivisions include:
  - a. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to all applicable ordinance standards;
  - b. The division of land into parcels of five (5) acres or more where no new street is involved; and
  - c. The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the use, structure, feature, or sign to its before damaged condition would equal or exceed fifty (50) percent of the use, structure, feature, or sign's appraised market value before the damage occurred. Such repairs may be undertaken successively and their costs counted cumulatively. Please refer to the definition of "substantial improvement."

**Substantial Improvement:** Any repair, reconstruction, rehabilitation, addition, or other improvement of a use, structure, feature, or sign the cost of which equals or exceeds fifty (50) percent of the appraised market value of the use, structure, feature, or sign before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not, however, include:

1. Improvement projects to a structure in order to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
3. Costs shall be cumulative for a period of five (5) years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether substantial improvement will occur.

**Supermarket:** A retail store over 25,000 square feet in size selling a complete assortment of food and household items.

# ARTICLE I. INTRODUCTORY PROVISIONS

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**Supplemental Planting:** The planting of trees on a site that prior to development had less than the minimum standard of trees per acre of pervious surface.

**Surety Instrument:** A financial guarantee in the form of an irrevocable letter of credit or cash deposit posted in the amount of 125 percent of the engineer's itemized construction estimate to guarantee the installation and acceptance of improvements required by this Chapter.

**Tax Exempt Organization:** Any organization which has been granted tax exempt status by the Internal Revenue Service and which has a local membership that raises funds to be used to support the organization and its activities.

**Telecommunications Facility:** A communications tower or antenna and any associated accessory structures and equipment. (See also "Communications Tower")

**Tidal:** A situation in which the water level periodically fluctuates due to the action of lunar and solar forces upon the rotating earth.

**Timeshare or Timesharing:** (See "Interval Occupancy")

**Timeshare Unit:** (See "Interval Occupancy Unit")

**Timesharing Lease Plan:** (See "Interval Occupancy Lease Plan")

**Timesharing Sales Plan:** (See "Interval Occupancy Sales Plan")

**Total Development Costs:** The actual costs of land, construction, and utility relocations associated with a development planned on an FDD property.

**Topographic Disturbance:** Any alteration of ground surface. Activities in this category include, but are not limited to, compaction, grading, excavation, and tilling.

**Topography:** The configuration of a surface, including its relief and the position of its natural and man-made features.

**Town:** The Town of Atlantic Beach, South Carolina.

**Tract:** A defined area or piece of land, the term itself not importing any precise dimension.

**Traffic Impact Study:** An engineered analysis of the effects of traffic generated by a development at build-out on the capacity, operations, and safety on the public streets and highway system and including an assessment of traffic impact measures necessary to reduce impact. This analysis and related calculations shall reference the most current edition of the Institute of Transportation Engineer's Trip Generation Manual.

**Traffic Mitigation Measures:** A street or other right-of-way improvement which enhances the manner in which improves vehicular and pedestrian access to a site and on adjoining streets. Examples include, but are not limited to, deceleration lanes, left turn lanes, and traffic signals.

**Traffic Zones:** Geographic areas which feature common roadway access points and are specifically designated for the purpose of analyzing traffic patterns.

**Tree:** Any woody or fibrous (e.g. palm) plant which is a conifer, deciduous, evergreen, or ornamental, as defined herein.

# ARTICLE I. INTRODUCTORY PROVISIONS

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**Tree Protection Zone:** The area around a tree corresponding to the drip line or ten (10) feet in all directions from the trunk, as provided in Article VIII.

**Tree Value Factor:** The numerical value assigned to each tree category that represents the importance of that category of trees with respect to environmental functions, visual buffering, growth characteristics, native species, and aesthetics.

**Uncovered Areas:** Ground devoid of vegetation.

**Underbrushing:** The removal of the shrub layer and/or understory from a site by hand or machine (also known as bush-hogging).

**Understory:** Those trees that grow beneath the overstory.

**Unit:** One (1) measurable item or segment with defined physical limits.

**Use:** The purpose or activity of which the land or building is designed, arranged, or intended, or for which it is occupied or maintained.

**Utility, Private:** Any privately owned company or corporation which provides the general public or residents within a private development with electricity, gas, heat, steam, communication, transportation, water, sewage collection, and/or treatment or other service.

**Utility, Public:** Any agency which, under public franchise or ownership, provides the general public with electricity, gas, heat, steam, communication, transportation, water, sewage collection and/or treatment, or other service.

**Variance:** A deviation from the zoning standards affecting height, bulk, setback, parking, and other dimensional requirements, where authorized by the Board of Zoning Appeals pursuant to the procedural requirements established by this Chapter. Variances do not include deviations from this Chapter's use, lot size, density standards, or any deviation from the terms of the Land Development Regulations contained in Article X (see also Design Modification).

**Vegetation:** All plant growth, especially trees, shrubs, vines, ferns, mosses, and grasses.

**Vegetation Disturbance:** Any act which alters the normal growth pattern or decreases the probability of survival of vegetation. Activities in this category include, but are not limited to pruning, topping, and compaction of soil.

**Vested Right:** The right to undertake and complete the development of property under the terms and conditions of a site specific development plan as provided in this Chapter.

**Water Table:** The upper surface of groundwater or that level below which the soil is saturated with water. The saturated zone must be at least six (6) inches thick and persist in the soil for more than a few weeks.

**Watershed:** The upslope area from which surface waters (overland runoff and channel flow) enter receiving waters at least seasonally.

**Wholesale Business:** An establishment or place of business primarily engaged in the warehousing or distribution of products to retailers and other businesses.

**Yard:** A required open space other than a court occupied from twelve (12) inches above the general ground level of the graded lot upward, provided however that fences, walls, poles, posts, and other

## ARTICLE I. INTRODUCTORY PROVISIONS

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customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**Yard, Front:** A yard extending between side lot lines across the front of a lot adjoining a public street or the oceanfront. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of three (3) feet, and no hedge nor vegetation shall be permitted which materially impedes vision across such yard between the heights of three (3) feet and ten (10) feet. Any yard which abuts a public street or the oceanfront, including corner and double frontage lots, is considered a front yard for the purposes of applying the standards of this Chapter.

**Yard, Side:** A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including porches.

**Yard, Rear:** A yard extending across the rear of the lot between inner side yard lines.

**Zero Lot Line Development:** The location of a building on a lot in such a manner that one (1) of the building's sides rests directly on the common lot line of an adjacent lot.

**Zoning Permit:** A permit issued by the Administrator that authorizes the use of land, structure, building, construction, or other activity in conformance with the applicable regulations of this Chapter.

**SECTIONS 5.3.33 through 5.3.199 Reserved**

## **ARTICLE I. INTRODUCTORY PROVISIONS**

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## **ARTICLE II. REVIEW AND DECISION-MAKING BODIES**

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### **DIVISION 1. ADMINISTRATOR**

#### **SECTION 5.3.200 Designation of LMO Administrator**

The Town Manager, or the person designated by the Town Manager, shall be the Administrator to whom reference is made throughout this Chapter. Where this Chapter assigns a responsibility, power, or duty to the Administrator, the Administrator may delegate that responsibility, power, or duty to any other agent or employee of the Town whom the Administrator may reasonably determine.

#### **SECTION 5.3.201 Powers and Duties of the Administrator**

The Administrator shall perform the duties and possess the powers as set forth in this Chapter as follows:

- A. Make administrative interpretations of this Chapter;
- B. Review and take administrative action on development plans, tree protection, conditional uses, sign permits, new development names, minor subdivisions, zoning permits, certificates of compliance, development sureties, minor amendments to PD master plans, and all other administrative actions as provided in this Chapter;
- C. Maintain permanent and current records of this Chapter including, but not limited to, all zoning maps, amendments, plats, plans, applications, and permits filed hereunder. Such records shall be open to public inspection during business hours;
- D. Provide such clerical, technical, and consultative assistance as may be required by the Board of Zoning Appeals, Planning Commission, Town Council, and all other boards, commissions, and officials in the exercise of their duties relating to this Chapter; and
- E. Conduct inspections of structures, lands, and uses thereof to determine compliance with this Chapter and to take appropriate enforcement actions as may be necessary.

#### **SECTION 5.3.202 Appeals**

- A. Except as provided in subsections B of this section, appeals from decisions of the Administrator are made to the Board of Zoning Appeals and follow the procedures established by Article III of this Chapter.
- B. Appeals from decisions of the Administrator in the application of the Land Development Regulations (Article X) of this Chapter are made to Planning Commission and follow the procedures established by Article III of this Chapter.

#### **SECTIONS 5.3.203 through 5.3.219 Reserved**

## ARTICLE II. REVIEW AND DECISION-MAKING BODIES

### DIVISION 2. PLANNING COMMISSION

#### SECTION 5.3.220 Powers and Duties

The Planning Commission as established by Ordinance shall have powers and duties as set forth by this Chapter and Section 6-29-340 of the South Carolina Code of Laws. Pursuant to this Chapter, the Planning Commission's responsibilities shall include:

- A. **Review Capacity.** The Planning Commission shall act in a review and recommending capacity on the following matters:
1. Zoning and Land Development Regulation Text Amendments;
  2. Zoning Map Amendments; and
  3. All other matters required by state law or referred by the Town Council for review pursuant to Sections 6-29-340 and 6-29-370 of the Code of Laws of South Carolina.
- B. **Decision-Making Authority.** The Planning Commission shall have final local decision-making authority on the following matters:
1. Major subdivision plat approvals;
  2. Public project review;
  3. Street naming;
  4. Appeals of administrative decisions arising from the Land Development Regulation provisions (Article X) of this Chapter;
  5. Design modifications arising from the Land Development Regulation provisions (Article X) of this Chapter; and
  6. Any other matter pursuant to Sections 6-29-340 and 6-29-370 of the Code of Laws of South Carolina, as amended.

#### SECTION 5.3.221 Staff

The Administrator shall serve as or provide staff to the Planning Commission as provided in Section 5.3.201 of this Chapter.

#### SECTION 5.3.222 Forms and Other Explanatory Documents

Staff shall prepare and approve all application forms to be required of an applicant prior to a hearing. The Commission, in conformance with Title 1, Chapter 9, shall devise and promulgate rules of procedure and other explanatory documents to advise the public and to govern the conduct of meetings and hearings.

#### SECTION 5.3.223 Appeals

Appeal from any final decision of the Planning Commission, as provided in Section 5.3.220B, must be taken to the Circuit Court within thirty (30) days after actual notice of the decision. A property owner whose land is the subject of a decision of the Planning Commission may appeal by filing notice of appeal with the Circuit Court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-1155

## ARTICLE II. REVIEW AND DECISION-MAKING BODIES

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of the Code of Laws of South Carolina. Appeals shall proceed in accordance with Sections 6-29-1150 through 6-29-1155 of the Code of Laws of South Carolina.

### SECTIONS 5.3.224 through 5.3.229 Reserved

## DIVISION 3. BOARD OF ZONING APPEALS (BZA)

### SECTION 5.3.230 Powers and Duties

The Board of Zoning Appeals is established, pursuant to the authority of Section 6-29-780, et seq. of the Code of Laws of South Carolina, and may hereafter be referred to as “the BZA”. The Board of Zoning appeals shall have the following powers:

- A. To hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by the Administrator in the enforcement of the zoning provisions of this Chapter;
- B. To hear and decide requests for variance from the zoning standards of this Chapter, subject to the limitation imposed by Article III;
- C. Review and take action on applications for uses by special exception; and
- D. To remand a matter to the Administrator, subject to the requirements imposed by Section 6-29-800 of the State Code, if the BZA determines that the record is insufficient for review.

### SECTION 5.3.231 Staff

The Administrator shall serve as provide staff to the Board of Zoning Appeals as provided in Section 5.3.201 of this Chapter.

### SECTION 5.3.232 Forms and Other Explanatory Documents

Staff shall prepare and approve all application forms to be required of an applicant prior to a hearing. The BZA, in conformance with Title 1, Chapter 9 shall devise and promulgate rules of procedure and other explanatory documents to advise the public and to govern the conduct of meetings and hearings.

### SECTION 5.3.233 Territorial Jurisdiction

The Board of Zoning Appeals shall have jurisdiction over all lands within the Town.

### SECTION 5.3.234 Witnesses and Contempt

- A. **Witnesses.** The chair, or in his or her absence, the vice-chair, may administer oaths and compel the attendance of witnesses by subpoena.
- B. **Contempt, Penalty.** In case of contempt by a party, witness, or other person before the BZA, the board may certify this fact to the Circuit Court of the County in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

## **ARTICLE II. REVIEW AND DECISION-MAKING BODIES**

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### **SECTION 5.3.235 Appeals from the Board of Zoning Appeals**

- A. A person who may have a substantial interest in any decision of the BZA, or an officer or agent of the governing authority, may appeal from a decision of the BZA to the Circuit Court in and for the County by filing with the Clerk of the Court a petition in writing, setting forth plainly, fully and distinctly why the decision is contrary to law. The appeal must be filed within thirty (30) days after the decision of the BZA is mailed.
- B. A property owner whose land is the subject of a decision of the BZA may appeal either:
  - 1. as provided in Subsection A; or
  - 2. by filing a notice of appeal with the Circuit Court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-825 of the Code of Laws of South Carolina.

Any notice of appeal and request for pre-litigation mediation must be filed within thirty (30) days after the decision of the BZA is postmarked.
- C. The appeal shall proceed in accordance with Sections 6-29-820 through 6-29-850 of the Code of Laws of South Carolina.

### **SECTIONS 5.3.236 through 5.3.239 Reserved**

## **DIVISION 4. BOARD OF ARCHITECTURAL REVIEW (BAR)**

### **SECTIONS 5.3.240 through 5.3.299 Reserved**

## **ARTICLE II. REVIEW AND DECISION-MAKING BODIES**

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# ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

## DIVISION 1. GENERAL

### SECTION 5.3.300 Purpose

The requirements of this Article shall apply to the review and administrative procedures for approvals, permits, and enforcement under this Chapter.

### SECTION 5.3.301 Pre-Application Conference

Prior to the submission of any application required by this Chapter, whether for Planning Commission, Board of Zoning Appeals, or the Administrator's review, all potential applicants shall submit a letter of intent to the Administrator. The potential applicant is then provided an opportunity for a pre-application conference where the applicant may ask questions regarding applicable standards and procedures required by this Chapter. Although a pre-application conference is not mandatory, the opportunity for such a conference is made available to all potential applicants.

### SECTION 5.3.302 Application and Fees

- A. **Application.** Applications submitted for permits and approvals required by this Chapter shall be on the appropriate forms specified by the Administrator.
- B. **Application Fees.** Applicants will be required to pay filing fees, established by resolution of the Town Council, to defray the actual cost of processing the application. Any applicant who has paid an appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to any review or action taken, shall be entitled to a refund of fifty (50) percent of the total amount paid upon written request to the Administrator. Required fees shall be made payable to the "Town of Atlantic Beach."
- C. **Application Check-In Conference.** A scheduled application check-in conference shall occur in order to determine whether the application meets minimum completeness requirements for acceptance. An application log, made available for public inspection, shall be maintained at the application check-in conference establishing a record of all received applications. Application check-in conferences are mandatory for all applications requiring review and approval by the Board of Zoning Appeals or Planning Commission. The check-in conference shall be made by appointment with the Administrator.
- D. **Application Deadline.** All applications shall be completed, have successfully gone through the check-in conference, and submitted to the Administrator prior to the meeting date at which the permit or approval will be considered according to the following submission deadlines:

Permit or Approval Subject to Review By:	Submission Deadline
Administrator	None
Planning Commission	45 days prior to meeting
Board of Zoning Appeals	35 days prior to meeting

- E. **Complete Application Required.** Except as provided for sign permits by Section 5.3.732, the Administrator shall have fifteen (15) working days to review the application materials to confirm

## ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

that all required items have been submitted. If incomplete, the Administrator shall inform the applicant in writing within the fifteen (15) day period, specifying reasons for which the application is insufficient. The applicant shall have sixty (60) days during which to provide the requested materials and complete the application. Thereafter, the application shall be voided.

- F. **Resubmission of Applications.** In the event that an application required under this Chapter is denied or disapproved by the Board of Zoning Appeals, Planning Commission, or Town Council, an application for the same request shall not be refiled for one (1) year from the advertised public hearing date. The Administrator, upon petition by the applicant, may permit a refile of said application after six (6) months from the original public hearing date upon a determination that significant physical, economic, or land use changes have taken place on the subject tract or within the immediate vicinity. The governing body may waive the time period for refile where a significant text amendment to this Chapter affecting the application has been adopted.

### SECTION 5.3.303 Public Notice Requirements

- A. **Summary of Notice Required.** Notice shall be required for development review as follows:

Procedure	Published	Posted	Mailed	Minimum Notice Required	Special Requirements
Zoning Permits				None	N/A
Zoning Appeals	✓			15 days	Section 5.3.330
Zoning Variances	✓	✓	✓	15 days	Section 5.3.333
Special Exceptions	✓	✓	✓	15 days	Section 5.3.333
Map Amendments (Rezoning)	✓	✓	✓	15 days	Section 5.3.382
Zoning Text Amendments	✓			30 days	Section 5.3.362
Planned Development Districts & Flexible Design Districts	✓	✓	✓	30 days	Section 5.3.382
Land Development Text Amendments	✓			30 days	Section 5.3.362
Major Subdivisions				None	
Minor Subdivisions				None	
Subdivision/ Development Regulation Design Modifications	✓			15 days	Section 5.3.357
Subdivision/Development Regulation Appeals	✓			15 days	Section 5.3.358
Public Project Review	✓			15 days	Section 5.3.373
Street Naming	✓			15 days	Section 5.3.362

- B. **Published Notice.** A distinctive advertisement shall be placed by the Administrator in a local newspaper of general circulation within the Town for not less than the number of calendar days prior to the hearing as specified in Chart 5.3.303(A). The notice shall specify the type of application, time, date, and location of the public hearing, and a phone number to contact the Town.

## ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

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- C. **Posted Notice.** A “Notice of Public Hearing” sign shall be posted by the Administrator not less than the number of calendar days prior to the hearing as specified in Chart 5.3.303(A). The sign shall be posted on the subject property in a location clearly visible from each street adjacent to the property. The notice shall specify the type of application, time, date, and location of the public hearing, and a phone number to contact the Town.
- D. **Mailed Notice.** The Administrator shall send a “Notice of Public Hearing” by first class mail to owners of record of real property, or regime/association managers, within 150 feet of the parcel under consideration and all parties in interest. Such notice shall be mailed to the owner at their last known address, which is currently on file at the Horry County Assessor’s Office, not less than the calendar days specified in Chart 5.3.303(A). At a minimum, the mailed notice shall provide the following information:
1. The general location of land that is the subject of the application, including a location map;
  2. Its legal description or street address;
  3. The substance of the application, including the description of proposal and the current zoning district;
  4. The time, date, and location of the public hearing; and
  5. A phone number to contact the Town.
- E. **Minimum Standards.** The notice standards of this section are to be considered the minimum standards. Nothing herein precludes the Administrator or governing body from providing notice in excess of these standards. In addition, where state law requires noticing requirements in excess of or is otherwise not addressed by this section, noticing required by such law shall be provided.

### SECTION 5.3.304 Application Review Procedures

- A. **Review Constitutes a Public Hearing.** Where a public hearing is required to be held before the Planning Commission, Board of Zoning Appeals, or Town Council, the meeting at which the applicant formally presents his/her request shall constitute the official public hearing on such matter. Where final action on a request is to be taken by Town Council and the Planning Commission is authorized to conduct the hearing, the commission shall summarize and convey to Town Council the comments received at such public hearing, along with its own recommendation for the action to be taken.
- B. **Summary of Review Procedures.** Table 5.3.304(A) summarizes the approval procedures for required permits and development approvals, referencing the powers and duties detailed for each of the review and decision-making bodies in Article II of this Chapter. Where the table and text of a given procedure conflict, the text shall govern.
- C. **Written Notice of Decisions.** Within ten (10) calendar days after a final decision is made by the appropriate reviewing body specified under Table 5.3.304(A), a copy of the written decision shall be sent to the applicant or appellant and all parties in interest. A copy of the notice shall be filed in the office of the Administrator where it shall be made available for public inspection during regular office hours.

## ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

Chart 5.3.304(C)					
Procedure	Administrator	Planning Commission	Town Council	Board of Zoning Appeals	Circuit Court
Zoning Permits	■			PH/◆	*
Site Plan Reviews (as a component of Zoning Permits)	■			PH/◆	*
Zoning Appeals	●			PH/■	*
Variance (Zoning)	●			PH/■	*
Special Exception Permits	●			PH/■	*
Zoning Map Amendments	●	PH/□	■		*
Zoning Text Amendments	●	□	PH/■		*
LDR Text Amendments	●	□	PH/■		*
Major Subdivisions	●	■			*
Minor Subdivisions	■	◆			*
LDR Design Modifications	●	PH/■			*
LDR Appeals	●	PH/■			*
Public Project Review	●	PH/■			*
Street Naming/Changes	●	PH/■			*

**KEY:** ● Review/Report   ■ Recommendation   ■ Final Approval   ◆ Administrative Appeal   \*Judicial Appeal

Notes: PH = Public Hearing   LDR = Land Development Regulations (Chapter X). \*Decisions of the Board of Zoning Appeals, Planning Commission, and Town Council are appealable to Horry County Circuit Court.

### SECTION 5.3.305 Expiration of Approval and Permits; Vested Rights

- A. **Purpose.** The General Assembly of the State of South Carolina, by Act 287 of 2004, amended the South Carolina Local Government Planning Enabling Act (Title 6, Chapter 29 of the S.C. Code) to add Article 11 cited as the “Vested Rights Act”. The Town Council has determined that it is in the best interest of the Town to avoid the default provisions as contained in the act. The purpose of this Article is to maintain and allow for local control and flexibility of local planning and zoning functions to the extent allowed under the Vested Rights Act.

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- B. **Applicability.** The provisions of this section shall apply to site specific development plans approved on or after the effective date of this Article and are applicable to site specific development plans approved pursuant to this Chapter. Site specific development plans approved after the effective date of the 2004 Act but prior to the effective date of this Article are subject to the provisions of Section 6-29-1560 of the State of South Carolina Code of Laws.
- C. **Vested Rights.** A vested right to develop property in accordance with a site specific development plan is triggered upon the final approval of the site specific development plan by the final official or governing body authorized to approve the site specific development plan and the payment to the Town of all applicable fees. Except as hereafter set forth, a vested right established by this Chapter is subject to the conditions and limitations as provided by Sections 6-29-1540 and 6-29-1550 of the State of South Carolina Code of Laws.
- D. **Expiration.** A vested right for an approved site specific development plan expires two (2) years after the date of final approval by the governing body authorized to approve a site specific development plan. Where not otherwise specified by this Chapter, preliminary, conditional, and other approvals where no vested rights are established under this section shall expire one (1) year from the date of approval.
- E. **Phased Development Plans.** No vested rights are established for phased development plans, including approved or conditionally approved phased development plans. An approved or conditionally approved site specific development plan is required prior to approval with respect to each phase of a phased development plan.
- F. **Variations and Special Exceptions.** Variations or special exceptions approved by the Board of Zoning Appeals prior to Planning Commission approval of a preliminary plat (where required) do not create vested rights until the Planning Commission's approval of a preliminary plat is obtained and all conditions for approval have been satisfied. Variations or special exceptions approved by the Board of Zoning Appeals prior to the Administrator's approval of a site plan do not create vested rights until the Administrator's approval of a site plan is obtained.
- G. **Preliminary Plats.** Vested rights are attached to preliminary subdivision plats only after: 1. the plat satisfies all conditions of preliminary plat approval as specified by the Planning Commission and when applicable; 2. the developer has received authorization from the Administrator as provided by this Chapter, to begin the installation of public improvements (i.e. streets, water, sewer, etc.).
- H. **Amendments.** A vested site specific development plan may be amended if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of this Chapter and all other Town Ordinances. Approval or conditional approval of an amendment does not re-start or otherwise extend the expiration period of a vested right.
- I. **Extension of Vested Rights.** No sooner than ninety (90) days, and no later than forty-five (45) days prior to the expiration of the two (2) year vested rights period for an approved site specific development plan, the landowner may apply to the governing body for an annual extension of the vested right. The governing body must approve an application for annual extension of the vested right unless an amendment to this Chapter or other applicable Town ordinance has been adopted which would ordinarily prohibit the site specific develop plan previously vested. No more than five (5) annual extensions of the vested right may be approved (total of seven (7) years).
- J. **Revocation.** A vested right to a site specific development plan is subject to revocation by the applicable local governing body upon its determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms

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and conditions of the original or amended approval. A validly issued building permit does not expire and is not revoked upon expiration or a vested right, except for public safety reasons or as prescribed by the applicable building code.

### **SECTION 5.3.306 Permits and Approvals Issued in Error are Void**

All departments, officials, and employees which are charged with the duty or authority to issue permits or approvals shall issue no permit or approval for uses or purposes where the same would be in conflict with this Chapter. Any permit or approval, if issued in conflict with this Chapter, shall be null and void.

### **SECTIONS 5.3.307 through 5.3.319 Reserved**

## **DIVISION 2. ZONING PERMITS AND CERTIFICATES**

### **SECTION 5.3.320 Zoning Permit Required**

- A. Except where expressly exempted, a zoning permit will be required for any of the following activities:
1. Activities requiring a building permit under the terms of the building code;
  2. Excavation preparatory to the construction of a structure for which a building permit is required;
  3. Improving any lot by grading, removing trees, filling or surfacing, constructing new driveways, or the construction, removal, or alteration of parking lots;
  4. The establishment of a new use or change in the use classification of any part of a structure or lot, including any increase in the number of families or dwelling units occupying a building or lot;
  5. The establishment of a home occupation;
  6. The construction, relocation, placement of, or alteration of any sign (Note: Additional zoning permit procedures and exemptions apply to the issuance of sign permits. See Article VII);
  7. The continuation of any use deemed nonconforming by the terms of Article IX;
  8. The relocation or demolition of any house, manufactured home, or other building; and
  9. Prior to obtaining a business license.
- B. No building permit application shall be approved by the building official until zoning permit approval has been granted.

### **SECTION 5.3.321 Conditional Use Permit Required for Specific Uses**

Conditional uses as set forth in Article IV of this Chapter, possess certain characteristics that require controls in order to ensure their compatibility with surrounding uses in the zoning district in which they are located. Conditional uses shall be permitted subject to a determination by the Administrator that they conform to all of the regulations set forth in this Chapter. Applications to permit the establishment of conditional uses shall be submitted and processed in accordance with the regulations set forth in this division for zoning permits.

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### SECTION 5.3.322 Application Required for all Zoning Permits

Except as provided for sign permits in Section 5.3.731, application for a zoning permit under this Article shall be made in accordance to the requirements in Section 5.3.302. The minimum requirements for a completed zoning application include:

1. The name of the applicant and property owner, if different;
2. The current mailing address of the applicant;
3. The street address and tax map parcel number of the property for which the application is being considered;
4. A legal description of the property to include a plat or plot plan;
5. A written description of the existing and future use of the property as well as the activity, construction, or other improvement for which a permit is sought;
6. The signature of the property owner(s);
7. An application fee as prescribed in Section 5.3.302;
8. An attached site plan, if required; and
9. Any additional information the Administrator deems necessary to ensure conformance with the requirement of this Chapter.

### SECTION 5.3.323 Zoning Permits for Temporary Uses

The Administrator may issue permits to authorize the temporary occupancy of lands, buildings, and structures for certain uses in conformance with the applicable requirements of Article V. Permits for temporary uses shall follow the procedures required for the issuance of zoning permits. A zoning permit for a temporary use shall clearly bear the date on which the permit expires.

### SECTION 5.3.324 Zoning Permit for Signs

See Article VII.

### SECTION 5.3.325 Site Plan Required; Review

- A. **Applicability.** All proposed development, as defined by this Chapter, including zoning permit requests that involve the construction of new buildings, the enlargement of existing buildings, the relocating of structures, the construction of drives or parking lots, or any activity necessitating an amendment to a previously approved plan shall require the submission of a completed site plan and shall be subject to review by the Administrator.
- B. **Exceptions.** The following activities or uses shall be exempt from site plan review, although they may be reviewed under a separate administrative procedure where noted in this Article or in other Articles of this Chapter:
  1. **Maintenance.** Maintenance of any structure is exempt from site plan review except where such activity requires the issuance of a zoning permit;

## ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

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2. Agricultural. The use or intended use of land with or without accessory structures, for purposes of agriculture, raising of crops or animals, forestry, mariculture, and the like shall be exempted from development plan review. Agricultural activities shall comply with the requirements of Article V; and
  3. Home Occupations. Home occupations as regulated by Article V.
- C. **Abbreviated Site Plan Review.** A zoning permit request involving the construction of a single-family dwelling, two-family dwelling, an accessory structure, a temporary use, an addition to an existing structure where such addition is less than 2,500 square feet, or the placement of a sign shall be subject to an abbreviated site plan review process. In addition, the Administrator may determine that other development activities, due to their limited scope, may be reviewed under an abbreviated site plan review process. When eligible for review under this process, the applicant shall submit three (3) copies of a site plan, drawn to scale, which depicts the following:
1. The name of the property owner and the address of the property;
  2. Property lines (existing and proposed);
  3. The location of all existing and proposed buildings and improvements;
  4. The location of any significant natural features (such as an area of special flood hazard);
  5. The location of any utilities or easements that are within ten (10) feet of the proposed structure or that will require relocation as a result of the construction; and
  6. Any additional information the Administrator reasonably determines is necessary in order to verify compliance with this Chapter.

The preparation of site plan exhibits by a design professional (engineer, surveyor or architect) may be required by the Administrator based on the complexity of the proposed construction.

- D. **Site Plan Requirements.** For all projects not subject to an abbreviated site plan review, the applicant shall submit a completed application, a certification of owner's consent, a copy of the property deed, and six (6) copies of a site plan. The site plan shall be prepared by a design professional (engineer, surveyor, or architect) and shall utilize an engineer's scale (1" = 10', 1"=20', 1"=30', 1"=40', or 1"=50'). All site plans shall depict, at a minimum, the following information:
1. North arrow;
  2. Scale to be utilized;
  3. Name of the property owner(s);
  4. Name of the development;
  5. Date of drawing and any revisions;
  6. Address of the property;

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7. Property lines (existing and proposed) and the delineation of any zoning district boundaries which traverse or are contiguous to the development site, including overlay zones;
8. Street(s) on which the property has frontage and/or street(s) which provide access to the property;
9. Size of the property (dimensions and square footage);
10. Accurate location and dimensions of proposed and existing building(s);
11. Location of security lighting;
12. Surface water drainage patterns;
13. Parking spaces with dimensions provided;
14. All existing and/or proposed entrances, exits, and internal driveways which will be utilized by the development;
15. Any existing or proposed easements (i.e. utility or drainage) located on the property;
16. Location of other utilities such as electrical, telephone, gas line service, and cable television to the development;
17. Location and description of all screening/buffering elements which will be utilized for the development (if required);
18. Location of trash and garbage containment areas with the proposed buffer;
19. Location of natural features and impervious surfaces;
20. Notation as to FEMA/FIRM flood zones covering the site, including special flood hazard areas and proposed first floor elevation of all buildings;
21. Supplemental data and exhibits including, but not limited to, a written narrative detailing the proposed use and, if required, a traffic impact study, a tree protection plan, lighting plan, storm water management plan, and street construction plans; and
22. Any additional information the Administrator reasonably determines is necessary in order to verify compliance with this Chapter.

### SECTION 5.3.326 Review and Action by Administrator

- A. Zoning permit applications that do not require a site plan shall be approved, approved with conditions, or denied by the Administrator within five (5) working days of receipt of the complete application. Applications for a zoning permits requiring site plans shall be approved, approved with conditions, or denied by the Administrator within twenty (20) working days of receipt of the complete application and ten (10) working days for zoning permits reviewed under the abbreviated site plan review process. When the review of a site plan requires other exhibits or approvals (e.g. approval of a subdivision, variance, special exception, rezoning, design modification, or street construction drawings), an application shall not be deemed complete until other required approvals

## ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

have been granted. Where a zoning permit is required as part of a development review under Article X, such review may be conducted concurrently provided all required exhibits have been submitted for approval.

- B. If an application is determined to be consistent with all applicable provisions of this Chapter, the Administrator shall approve the application and advise the applicant in writing. A determination by the Administrator that all requirements and provisions have not been satisfied shall result in disapproval of the application and notice of such disapproval shall be given to the applicant in writing.

### SECTION 5.3.327 Certificate of Zoning Compliance

No structure, lot, or any part thereof for which a zoning permit has been issued shall be used or occupied until the Administrator has, after final inspection, issued a Certificate of Zoning Compliance indicating that the use or structure complies with all applicable requirements of this Chapter and the approved zoning permit. Where no construction is involved, the Certificate of Zoning Compliance may be issued concurrent with the zoning permit. In cases involving construction, the Certificate of Zoning Compliance may be combined with the Certificate of Occupancy required under the building code. The issuance of a Certificate of Zoning Compliance or the Certificate of Occupancy shall not be construed as waiving any provision of this Chapter or the applicable zoning permit.

### SECTIONS 5.3.328 through 5.3.329 Reserved

## DIVISION 3. ZONING APPEALS, VARIANCES, AND SPECIAL EXCEPTIONS

### SECTION 5.3.330 Appeals from Decisions of the Administrator (Zoning)

- A. Any person aggrieved or any officer, department, or board of the Town may appeal a decision of the Administrator in the enforcement or administration of the zoning provisions of this Chapter. Such appeals are made to the Board of Zoning Appeals and shall be taken within fifteen (15) calendar days of the determination from which the appeal is sought. The notice of appeals shall be filed with the Administrator from whom the appeal is taken and the secretary of the BZA. The notice of appeal shall identify the decision of the Administrator that is being appealed and state the grounds for the appeal. The Administrator from whom the appeal is taken shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Administrator from whom the appeals is taken certifies to the board, after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings may not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the Administrator from who the appeal is taken, and on due cause shown.

### SECTION 5.3.331 Variances

- A. **Application Requirements.** The owner of a property may initiate a request for a variance by filing an application with the Administrator including, but not limited to, the following information:
  - 1. A completed application form and appropriate fee as required by Section 5.3.302;

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2. A site plan at a scale of 1"=30' accurately showing the variance requested;
  3. Certification, written and signed by the property owner;
  4. A written narrative explaining in detail the variance's consistency with the character and purpose of the zoning district in which it would be located and its conformance with the review criteria in Subsection B; and
  5. Any additional information or supporting documentation the Board of Zoning Appeals reasonably determines is necessary in order to verify compliance with this Chapter.
- B. **Variance Review Criteria.** A variance may be granted if the Board of Zoning Appeals concludes that strict application of the provisions of this ordinance would result in an unnecessary hardship. Per Section 6-29-800 of the SC Code of Laws, a variance may be granted in an individual case of unnecessary hardship if the board determines and expresses in writing all of the following findings:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
  2. These conditions do not generally apply to other properties in the vicinity;
  3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
  4. The authorization of the variance will not be of substantial detriment to adjacent properties or the public good, and the character of the district will not be harmed by the granting of the variance.
- C. **Limitations.** The BZA may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to physically extend a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably may not be considered grounds for a variance. Further, when granted, the BZA may attach conditions to the variance regarding the location, character, or other features of the proposed building, structure, or use to protect surrounding property values and promote the public health, safety, and general welfare.

### SECTION 5.3.332 Special Exceptions

- A. **Application Requirements.** The owner of a property may initiate a request for a special exception by filing an application with the Administrator. The application shall include, but not be limited to, the following information:
1. A completed application form and appropriate fee as required by Section 5.3.302;
  2. A site plan at a scale of 1"=30' accurately showing the special exception requested. The site plan shall include all required depictions and exhibits as required by Section 5.3.325D;
  3. The proposed density of such special exception use, expressed in terms of dwelling units, hotel/motel rooms per net acre, or total square footage per net acre;
  4. Any relevant information regarding the traffic impact of such proposed use;
  5. A written narrative addressing the consistency of the proposed special exception use with the character and purpose of the zoning district in which it would be located; and

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6. The consistency of the proposed use with the Town's Comprehensive Plan.

**B. Special Exception Review Criteria.** A special exception may be granted if the Board of Zoning Appeals determines and expresses in writing that it meets the following requirements:

1. Consistency with the Town's Comprehensive Plan as well as the character, purposes, and requirements of the applicable district;
2. Compatibility with the existing uses and pedestrian/vehicular circulation adjacent to and near the property;
3. Will not be hazardous, detrimental, or disturbing to surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, or general nuisance;
4. Will not otherwise adversely affect the development of the general neighborhood or of the district in which the use is proposed;
5. Adequate water and sewer supply, stormwater facilities, waste disposal, and other public services are available; and
6. Important natural features on site will be preserved and incorporated into the development's design.

**C. Limitations.** In granting a special exception permit, the BZA may attach such conditions regarding the location, character, or other features of the proposed building, structure, or use to protect surrounding property values and promote the public health, safety, or general welfare.

### SECTION 5.3.333 Public Notice of Hearing

Public notice of the hearing for all variances, special exceptions, and appeals to the Board of Zoning Appeals shall be provided as per the requirements detailed in Section 5.3.303 and Chart 5.3.303(A). For hearings regarding variances and special exceptions, conspicuous notice shall be posted on or adjacent to the property affected, with at least one (1) such notice being visible from each public thoroughfare that abuts the property.

### SECTION 5.3.334 Public Hearing and Decision

All meetings and hearings of the Board of Zoning Appeals shall be open to the public. Oral and written comments may be submitted to the BZA by the applicant or any other interested member of the public, including owners of adjoining property. Additionally, any party may appear in person or by agent or attorney. The BZA shall issue a decision within thirty (30) days of the hearing. BZA members must be present in order to vote. All final decisions and orders of the BZA must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the BZA which shall be delivered to parties of interest by certified mail.

### SECTIONS 5.3.335 through 5.3.339 Reserved

## DIVISION 4. CERTIFICATES OF APPROPRIATENESS AND APPEALS

### SECTIONS 5.3.340 through 5.3.349 Reserved

# ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

## DIVISION 5. LAND DEVELOPMENT REGULATIONS REVIEWS

### SECTION 5.3.350 Major Subdivisions in General

The procedure for the review and approval of major subdivisions shall consist of the review and approval of a sketch plan, a preliminary plat, and a final plat. For all plan or plat considerations, the Planning Commission may approve, approve with conditions, or disapprove a request consistent with the terms of this Chapter. Approval of a sketch plan and preliminary plat shall be completed prior to making street improvements or installing utilities. The approval of the final plat, the signing of a record plat by the Administrator or Planning Commission Chairman, and the recording of said plat in the Office of the Horry County Register of Deeds shall occur prior to the sale of any lots in the proposed major subdivision. Requests for the review and approval of a preliminary or final major subdivision plat shall be accompanied by a written application provided on forms approved by the Planning Commission.

### SECTION 5.3.351 Sketch Plans

- A. **Review of Sketch Plan; Action by Administrator.** The applicant shall first submit to the Administrator two (2) copies of a sketch plan of the proposed division. The purpose of the sketch plan is to assist the applicant prior to extensive site planning and preparation of the preliminary plat in addition to familiarizing the applicant with the regulations affecting the land to be subdivided. The Administrator shall review and approve, approve with conditions, or disapprove the sketch plan within fifteen (15) days from the date the sketch plan was submitted and provide the applicant with a written determination. The failure of the Administrator to act within the time prescribed above shall constitute an approval and shall permit the developer to prepare and submit a preliminary plat to the commission.
- B. **Sketch Plan Content.**
1. The sketch plan of a proposed major subdivision shall be depicted at a scale not smaller than two hundred (200) feet to one (1) inch and shall be drawn on material not larger than twenty-four (24) inches by thirty-six (36) inches. For larger subdivisions, matched sheets shall be used. The sketch plan shall include the following data:
    - a. Total acreage in the tract to be subdivided;
    - b. Tentative street and lot arrangement;
    - c. Approximate rights-of-way;
    - d. Existing and proposed uses of land throughout the subdivision;
    - e. Existing uses of land surrounding the subdivision;
    - f. Topography by contours at vertical intervals of not more than five (5) feet; and
    - g. The proposed name of the subdivision.
  2. The applicant shall submit a sketch plan for the entire tract even for plans that involve development of only a part of the property. The Administrator may waive this requirement when the remainder of the tract, post division, would conform to zoning and other applicable requirements and development is not, in the opinion of the Administrator, immediate or practical.

### SECTION 5.3.352 Preliminary Plats

- A. **Review of Preliminary Plat; Action by Commission; Time Limit Affecting Approval.**

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1. **Submission.** Following the approval of the sketch plan, the applicant may proceed with the submission of a preliminary plat for consideration by the Planning Commission. The applicant shall submit two (2) copies of a completed application form and ten (10) black line copies of the preliminary plat to the Administrator no less than forty-five (45) days prior to the commission meeting on which the request is to be considered.
  2. **Administrator's Review and Report.** Upon receipt, the Administrator shall review the preliminary plat for conformity with this Article and transmit copies to the Planning Commission. At the discretion of the Administrator or the commission, copies of the plat may be distributed to other departments or agencies for their review and comment. The Administrator shall prepare and distribute a written report on the requested preliminary plat approval to the commission and applicant.
  3. **Action by the Planning Commission.** The Planning Commission shall act on the preliminary plat within sixty (60) days. All decisions and other actions shall be recorded in the minutes of the commission. The commission shall indicate approval, approval with conditions, or disapproval in writing. Preliminary approval shall be noted on the plat and certified by the Administrator upon authorization by the commission. If disapproved, the commission shall express, in writing, its disapproval and its reasons therefore. The Administrator shall promptly mail notice of the commission's decision and shall note the date that written notification was mailed to the applicant.
  4. **Modifications to an Approved Preliminary Plat.** The applicant may request and the Administrator may authorize minor modifications to an approved preliminary plat. Such modifications, when authorized, shall not require the resubmission or reconsideration of the preliminary plat prior to the preparation of the final plat. The applicant's request for modification and the Administrator's authorization shall be in writing. Minor modifications do not include any change that would:
    - a. Result in an increase in the number of lots;
    - b. Alter the exterior boundary of the subdivision through the addition or removal of land;
    - c. Alter the proposed right-of-way or alter the extent or location of any improvement to be dedicated to the Town;
    - d. Be contrary to these regulations or require the granting of a design modification by the Planning Commission; or
    - e. In the opinion of the Administrator exceed the scope or intent of the Planning Commission's original approval or consideration.
- B. Preliminary Plat Content.** The preliminary plat shall clearly and legibly depict the proposed subdivision at a scale not smaller than one-hundred (100) feet to one (1) inch and shall be drawn not larger than eighteen (18) by twenty-four (24) inches or smaller than eleven (11) inches by seventeen (17) inches. If the preliminary plat requires more than one (1) sheet, a key diagram showing the relative location of the various sections shall be drawn on each sheet. The preliminary plat shall include or be accompanied by the following data:
1. **General Data.** General data shall include:
    - a. The proposed name of subdivision;
    - b. North arrow (magnetic, true, or grid north), graphic scale, written scale, date that the original drawing(s) was completed, and dates of any revisions to the original drawing(s);
    - c. Name of the owner, applicant, and surveyor or engineer;
    - d. Names and locations of all owners of property abutting the subdivision; and

## ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT

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- e. A location map showing the relationship between the proposed subdivision and the surrounding area.
2. Existing Data. Existing data shall include:
    - a. The distance and bearing of one (1) of the corners of the boundary of the subdivision to the nearest intersection of existing streets;
    - b. Total tract boundaries of the property being subdivided, showing bearings and distances, and a statement of the total acreage of the property;
    - c. Contour lines at vertical intervals of two (2) feet or less. The location and elevation of the benchmark to which the elevations refer should be noted;
    - d. All existing property lines, rights-of-way, easements, sewer lines including grades and invert elevations, water lines, fire hydrants, utility transmission lines, culverts, bridges, ditches, water courses, buildings, areas of special flood hazard, wooded areas, designated wetlands, and all other significant manmade or natural features within the property boundaries of the subdivision. Where the property borders or includes lands outside the corporate boundaries of the Town of Atlantic Beach, the location of the Town limits lines shall be denoted; and
    - e. All existing streets (included streets that are recorded, but not constructed) on or abutting the tract including the names, right-of-way widths, pavement widths, and approximate grades.
  3. Proposed Site Data. Proposed site data shall include:
    - a. Street rights-of-way, pavement widths, grades, and street names. Street profiles and cross sections shall be provided on a separate sheet;
    - b. Lot lines, lot dimensions, lot and block numbers, and the minimum setback lines for buildings along streets as well as along rear and side property lines;
    - c. Other easements and rights-of-way, including their location, dimensions, and functions;
    - d. Contour changes to be made by grading;
    - e. Areas, other than streets and easements, designated for public use with any conditions governing their use;
    - f. Preliminary plans prepared by a registered engineer for sidewalks, sanitary sewers, water lines, storm sewers, culverts, storm water retention or detention basins, electric lines, and gas lines. Preliminary plans shall include all information and exhibits required under the applicable standards of the reviewing and/or approving department, agency, or utility;
    - g. Plans for the protection of on-site soils from wash and erosion during construction;
    - h. Areas to be used for purposes other than residential or public, with the purpose, location, and dimensions indicated; and
    - i. All planned encroachments by buildings, utilities, rights-of-way, easements, fill, or excavations into areas of special flood hazard. All proposed dredging, filling, or other alterations to the flood-prone areas shall be accompanied by a report prepared by a registered engineer containing, at a minimum, the following information:
      - (1) The source and characteristics of all fill materials,
      - (2) Proposed deposition of all spoil materials,
      - (3) Engineering evaluation of proposed filling or dredging operations with specific reference to anticipated engineering problems such as drainage, siltation, slope erosion, fill settlement, and similar features, and
      - (4) Evaluation of the impact of the subdivision on the ecology of the area and the overall environment of the community.

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4. Supplemental Data. Supplemental data shall include all other information reasonably determined by the Planning Commission to be necessary in order to verify compliance with this Chapter.

### SECTION 5.3.353 Final Plats

#### A. Review of Final Plat; Action by Commission.

1. Submission. Following the approval of the preliminary plat and the completion of all conditions requisite to such approval, the applicant may proceed with the submission of a final plat for consideration by the Planning Commission. The applicant shall submit two (2) copies of a completed application form, ten (10) signed (owner and surveyor) black line plat copies, and one (1) reproducible copy of the final plat (mylar or digital copy) to the Administrator no less than forty-five (45) days prior to the commission meeting on which the request is to be considered.
2. Review and Report. Upon receipt, the Administrator shall review the final plat for conformity with this Chapter and shall transmit copies of the plat to the Planning Commission. At the discretion of the Administrator or the commission, copies of the plat may be distributed to other departments or agencies for their review and comment. The Administrator shall prepare and distribute a written report on the requested final plat approval to the commission and applicant.
3. Action by the Planning Commission. The Planning Commission shall act on the final plan within sixty (60) days. All decisions and other actions shall be recorded in the minutes of the commission. If approving, the commission shall indicate approval in writing and shall state the conditions of approval, if any. If disapproved, the commission shall express, in writing, its disapproval and its reasons therefore. The Administrator shall promptly provide notice of the commission's decision and shall note the date that written notification was mailed to the applicant. In no case shall the Planning Commission disapprove a final plat which meets the requirements as set forth in these regulations, conforms to an approved preliminary plat, and has all the required improvements installed and approved or has established a surety instrument accepted by the commission or the Administrator.
4. Conditions Requisite to Signing of the Final (Record) Plat. Prior to the Administrator signing an approved final plat for recording, the applicant shall:
  - a. Correct all deficiencies or make any other corrections to the final plat as specified in the commission's approval;
  - b. Meet all conditions specified in the commission's approval. The applicant shall provide documentation indicating that all conditions have been satisfied;
  - c. Install all subdivision monuments as required in Article X;
  - d. Install and have accepted all required public improvements or provide an acceptable surety instrument to guarantee the installation and acceptance of public improvements;
  - e. Submit documentation of all regulatory approvals as required in Article X; and
  - f. Submit five (5) black line copies of the final (record) plat to the Administrator and one (1) digital copy. All certifications shall be signed upon submission, excluding the "Certificate of Approval for Recording."
5. Signing and Recording of the Final (Record) Plat. Upon the approval of the final plat and satisfaction of all requisite conditions, the Administrator shall sign the "Certificate of Approval for Recording." This print becomes the instrument (record plat) to be recorded in the Office of the Horry County Register of Deeds. The Administrator shall promptly cause this copy to be

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filed with the Office of the Horry County Register of Deeds and shall recoup all fees incurred for such filing from the applicant.

**B. Final Plat Content.** The final plat of a proposed major subdivision shall be clearly and legibly drawn at a scale not smaller than one-hundred (100) feet to one (1) inch and shall be drawn not larger than eighteen (18) by twenty-four (24) inches or smaller than eleven (11) by seventeen (17) inches. In cases where the Office of the Horry County Register of Deeds' office prescribes a dimensional standard for plat book entries contrary to this provision, the final plat shall be prepared to conform to the standards of the recording authority. If the final plat requires more than one (1) sheet, a key diagram showing the relative location of the various sections shall be drawn on each sheet. The final plat shall include the following:

1. General Data. General data shall include:

- a. The name of subdivision;
- b. North arrow (magnetic, true, or grid north), graphic scale, written scale, date that the original drawing(s) was completed and dates of any revisions to the original drawing(s), and any other legend information deemed pertinent;
- c. Name of the owner of record;
- d. Name, registration number, and seal of the registered surveyor or engineer licensed by the state to prepare land surveys for recording;
- e. Names and locations of all owners of property abutting the subdivision; and
- f. A location sketch that shows the general location of the subdivision. The location sketch shall be placed in the upper left hand corner of the plat. This sketch shall be drawn at a scale large enough to show the subdivision's locational relationship to existing features such as major arterial streets, schools, recreational areas, or other identifiable landmarks.

2. Platting Information. Platting information shall include:

- a. All lot lines with distances and bearings;
- b. Rights-of-way and easements to include their location, widths, and purposes;
- c. Minimum building setback lines including setbacks applicable to front, rear, and side yards;
- d. Streets and alleys, to include radii, central angles, tangents, lengths of arcs and curvatures;
- e. The location of public sidewalks on or adjacent to the property;
- f. Street names;
- g. All watercourses, streams, lake shores, wetlands, and areas of special flood hazard meander lines with distances and bearings. Where available, the elevation for the area of special flood hazard shall be denoted on the plat;
- h. Lot numbers shown in numerical order, a statement of the total number of lots, the total acreage (or square footage) of all divided lots, and the total acreage (or square footage) of rights-of-way to be dedicated by the plat;
- i. Lot size, denoted in square feet if under one (1) acre;
- j. All reservations and dedications including the accurate outline of all property, whether offered for dedication to public use or reserved by covenant for the common use of the property owners of the subdivision, shall be shown with the purposes plainly marked;
- k. The location (and elevation, if established) of all existing and proposed street monuments as required by Article X; and
- l. All other data or illustrations needed to readily determine and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement, boundary line, and building line whether curved or straight. This shall include the radius,

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point of tangent and other data for curved property lines and curved street, to an appropriate accuracy and in conformance with Chapter 49 of the South Carolina Code of Regulations.

- C. **Supplemental Data.** Final plans prepared by a registered engineer for sidewalks, sanitary sewers, water lines, storm sewers, culverts, storm water retention or detention basins, electric lines, and gas lines shall be submitted. Final plans shall include all information and exhibits required under the applicable standards of the reviewing and/or approving department, agency, or utility.
- D. **Certifications.** The following certifications shall be placed along the bottom of the final plat:
  - 1. Certificate of Accuracy;
  - 2. Certificate of Ownership and Dedication;
  - 3. Certificate of Approval for Streets and Other Dedications (when applicable);
  - 4. Certificate of Water and Sewer Availability or Extension; and
  - 5. Certificate of Approval for Recording.

These certifications shall be signed prior to the recording of the final (record) plat:

### SECTION 5.3.354 Minor Plat Approval Procedure

- A. **Approval.** Minor subdivisions may be reviewed and approved by the Administrator in conformance with these regulations. Unlike major subdivisions, the review and approval of a minor subdivision shall consist of only one (1) step, the final plat. Final plats for minor subdivisions shall conform to the same standards as required for major subdivisions pursuant to Section 5.3.353.
- B. **Submission.** The applicant shall submit a completed application form and three (3) black line copies of the final plat. The “Certificate of Ownership and Dedication” and the “Certificate of Accuracy” must be signed.
- C. **Administrator Review.** Upon receipt, the Administrator shall review the final plat for conformity with this Chapter. At the discretion of the Administrator copies of the plat may be distributed to other departments or agencies for their review and comment.
- D. **Action by the Administrator.** The Administrator shall act on the final plan within sixty (60) days. All decisions and other actions shall be in writing. If approving, the Administrator shall indicate approval in writing and shall state the conditions of approval, if any. If disapproved, the Administrator shall express, in writing, the disapproval and the reasons therefore. The Administrator shall promptly mail notice of the decision and shall note the date that written notification was mailed to the applicant. Additionally, the Administrator shall periodically provide a report to the Planning Commission of all minor subdivision determinations and other actions taken pursuant to this division.
- E. **Conditions Requisite to Signing of the Final (Record) Plat.** Prior to the Administrator signing an approved final plat for recording, the applicant shall fulfill all requirements outlined in Section 5.3.353(A)(4).
- F. **Signing and Recording of the Final (Record) Plat.** Upon the approval of the final plat, the Administrator shall sign the “Certificate of Approval for Recording.” This print becomes the instrument (record plat) to be recorded in the Office of the Horry County Register of Deeds. The Administrator shall promptly cause this copy to be filed with the Register of Deeds and shall recoup all fees incurred for such filing from the applicant.

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### SECTION 5.3.355 Excepted Plats not Subject to Development Regulations

- A. **Excepted Plats Not Subject to Requirements.** Excluding the provisions of this section, subdivisions and other plats defined as “excepted” are not subject to the requirements of this Chapter. All such subdivisions and other plats shall be submitted to the Administrator for notification and a determination of compliance with this division. Excepted subdivisions and other plats shall be prepared consistent with the requirements for final plats as provided in Section 5.3.353(B). Such plats shall be prepared by a surveyor or engineer licensed by the state to perform land surveying pursuant to the requirements of Chapter 49 of the South Carolina Code of Regulations.
- B. **Submission.** The applicant shall submit two (2) black line copies of the plat purporting to be excepted to the Administrator. Within seven (7) days of the receipt of such plat, the Administrator shall determine:
1. The subdivision or other depiction would constitute an excepted plat and would conform to the requirements of this division. Upon such determination, the Administrator shall place a stamp of the plat, attested by signature, which reads “This plat constitutes a subdivision or other depiction which is deemed excepted by the terms of the Town of Atlantic Beach Land Management Ordinance. No other determination of this plat’s compliance with the requirements of said regulations has been made. This plat may be recorded in the Office of the Horry County Register of Deeds.” One (1) stamped copy of the final (record) plat shall be returned to the applicant and the applicant may record the plat without further review or action by the Administrator;
  2. The subdivision or other depiction would constitute an excepted subdivision; however, does not comply with the requirements of this division. In such instances, the Administrator shall promptly notify the applicant and state in writing the corrections required prior to the recording of the plat. After corrections have been made, the applicant may resubmit the plat to the Administrator; or
  3. The subdivision or other depiction would not constitute an excepted subdivision as defined by this Chapter and would be subject to review under the terms of this Chapter. Upon such a determination, the Administrator shall promptly provide written notification to the applicant and specify the process to be followed as required by this Article.

### SECTION 5.3.356 Certificate of Compliance

The subdivision, or development that takes place on the subdivision, may not be occupied or used until a Certificate of Compliance has been obtained from the Administrator. In order to receive a Certificate of Compliance, the development must be able to function with all required infrastructure including, but not limited to, streets, access drives, utilities, and other required improvements.

- A. **Determination of Compliance by Administrator.** Upon completion of all development work, the applicant shall submit the applicable documents to the Administrator for review and approval. The Administrator shall then schedule and conduct a final inspection for the purpose of verifying compliance with all applicable provisions of this Chapter. Upon determination of compliance, the Administrator shall complete a Certificate of Compliance and forward it to the applicant. A Certificate of Occupancy shall not be issued by the Town's Building Official or designee until a Certificate of Compliance has been issued.
- B. **Temporary Certificate of Compliance.** At the discretion of the Administrator a temporary Certificate of Compliance may be issued for a period of up to a maximum of six (6) months for a

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subdivision or development. No temporary Certificate of Compliance shall be issued for a development, or approved phase thereof, unless development is substantially complete and the site is in a safe, accessible, and useable condition or a development surety has been provided.

### SECTION 5.3.357 Design Modifications

- A. The Planning Commission may grant, upon written request, design modifications to the requirements found in Article X of this Chapter. Design modifications shall only be granted by the commission in cases where the strict application of the requirements of Article X would create an unnecessary hardship in the development of land.
- B. Procedure for Granting Design Modifications.**
1. Requests for design modifications shall be submitted to the Administrator on forms approved by the Planning Commission. All requests shall be submitted no less than forty-five (45) days prior to the regularly scheduled commission meeting at which the request will be considered. The Administrator shall, upon receipt, provide public notice of a hearing on the request in accordance with Section 5.3.303.
  2. In reviewing a request for a design modification, the Planning Commission shall consider the public interest and endeavor to preserve the general intent and spirit of these regulations. The commission may grant or grant with conditions requests for design modifications upon finding:
    - a. The strict application of the regulations would create an unnecessary hardship in the development of land;
    - b. The design modification(s) is justified because of topographical or other special conditions unique to the property; and
    - c. The design modification(s) would not compromise the intent or purpose of this chapter.
  3. Determinations of the Planning Commission to approve, approve with conditions, or deny a request, including all finding requisite thereto, shall be in writing and entered into the minutes of the commission. The commission's determination, with written findings, shall be delivered to the applicant and other parties of interest by certified mail.
- C. Design Modifications Not to Vary Certain Standards.** The Planning Commission shall not grant a design modification that would:
1. Alter any setback, lot size, density, use, or other zoning requirement. Requests that would affect a requirement imposed by the zoning provisions of this Chapter shall not be granted except in cases where the Board of Zoning Appeals has approved a variance;
  2. Alter or otherwise reduce the surety requirements imposed by this Chapter;
  3. Alter, without the consent of the town council, construction standards (composition and materials only) for public streets and other infrastructure to be dedicated or deeded to the Town for perpetual maintenance; however, the commission may alter dimensional standards under the terms of this division and may authorize decorative materials as provided in Section 5.3.1045; or
  4. Conflict with any other local, state, or federal law.

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### SECTION 5.3.358 Appeals from Decisions of the Administrator (Development Regulations)

- A. The Planning Commission shall hear and decide all appeals arising from any order, requirement, decision, or determination of the Administrator under the terms of Article X (Land Development Regulations) of this Chapter. Any person aggrieved or any officer, department, board, or bureau of Town may appeal. Such appeals shall be taken within fifteen (15) calendar days of notification of the order, requirement, decision, or determination from which the appeal is sought. An appeal is perfected by filing a written notice of appeal on a form prescribed by the commission. The notice of appeal shall be filed with the Administrator from whom the appeal is taken and with the secretary of the commission, accompanied by the applicable appeal fee in an amount set by the Town Council. The notice of appeal shall identify the decision of the Administrator that is being appealed and state the grounds for the appeal.
- B. Once the applicant has filed a notice of appeal, the Planning Commission shall hold a duly noticed hearing on the appeal within forty-five (45) days. Public notice of the hearing and meeting shall be provided in accordance with Section 5.3.303. At the hearing, any party may appear in person or by agent or attorney.
- C. The Planning Commission shall issue a decision within thirty (30) days of the hearing. All decisions and orders of the commission shall be in writing and filed as a permanent record. Commission decisions shall be delivered to parties of interest by certified mail.

### SECTION 5.3.359 Reserved

## DIVISION 6. STREET NAMING

### SECTION 5.3.360 Authority to Name Streets; Consultation Required

The Planning Commission shall, by proper certificate, approve and authorize the naming or renaming of streets within the Town of Atlantic Beach. In exercising this authority, the commission shall consult with the appropriate county department(s) responsible for addressing and E911 services and the Town's Police Department and other emergency service providers. Notice of pending action and requests for comments from such departments shall be in writing.

### SECTION 5.3.361 Initiation of Street Name; Application

- A. **Naming of New Streets.** The proposed name of a new street(s) shall appear on the final subdivision plat in accordance with Article X of this Chapter. The name appearing on the approved final plat and included in the Planning Commission's subsequent recommendation for street acceptance shall, barring any further action, constitute the official name of the street.
- B. **Renaming or Naming of Existing Streets.** An application to name or rename an existing street may be initiated by the Town Council, Administrator, or Planning Commission. The application for renaming or naming shall include the name to be assigned or reassigned to the street and a description of the affected street including its location, length, and the points of beginning and termination for which the new name shall apply.

### SECTION 5.3.362 Changing Street Name; Cause

The Planning Commission may, after consultation as required in Section 5.3.360 and a hearing with public notice in accordance with Section 5.3.303, change the name of a street in the following instances:

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1. When there is a duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders, or messages;
2. When it is found that a change may simplify markings or giving of directions to persons seeking to locate addresses; or
3. Upon any other good and just reason that may appear to the commission.

### **SECTION 5.3.363 Recording of Street Name Change**

On the street name being changed, after notice and a hearing, the Planning Commission shall issue a certificate designating the change, which must be recorded in the Office of the Horry County Register of Deeds. Thereafter, the name changed and certified is the legal name of the street.

### **SECTIONS 5.3.364 through 5.3.369 Reserved**

## **DIVISION 7. PUBLIC PROJECT REVIEW**

### **SECTION 5.3.370 Purpose and Intent**

Section 6-29-540 of the State of South Carolina Code of Laws requires the Planning Commission to review proposed public projects for conformance with the Town's comprehensive plan. These public projects include new streets, structures, utilities, squares, parks, or other public ways, grounds, or open spaces, or public buildings for any use, whether publicly or privately owned. The review specified by this section of the state code is separate and distinct from the regulatory compliance and other reviews required under the zoning and land development requirement of this Chapter.

The purpose of this division is to specify the review procedures to be followed by the Planning Commission and to establish the plan submittal requirements for entities seeking to locate public facilities within the Town. Although this process has been incorporated in the Town's Land Management Ordinance, the review and requirements specified by this division shall be considered supplemental to all other provisions contained within this Chapter.

### **SECTION 5.3.371 Public Projects Subject to Planning Commission Review**

The following shall be reviewed by the Planning Commission prior to the construction or authorization of their use within the Town of Atlantic Beach:

1. New streets and public squares;
2. New major utilities as defined by this Chapter;
3. New public parks; and
4. New public buildings, grounds, and open spaces (whether publicly or privately owned).

Where the Planning Commission's review and approval is required for new streets and/or utilities, or when a public park is incorporated in a subdivision proposal, the Planning Commission's review under this division may be concurrent with other reviews and approvals required by this Article and Article X.

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### **SECTION 5.3.372 Submission Requirements; Transmittal to Planning Commission**

- A. Any entity proposing to construct or establish any building, structure, or use governed by this division shall submit to the Administrator a complete application and eight (8) copies of a site plan. The application and site plan shall contain, at a minimum, the information required by Section 5.3.325 for site plan review.
- B. The Administrator shall review the submission for its completeness. If the submission is determined to be incomplete, the Administrator shall notify the entity within five (5) working days of the application's receipt, specifying the information needed to constitute a complete application. If no notice is sent within the five (5) working days, the application shall be considered complete. The Administrator shall promptly transmit the complete application and site plan to the Planning Commission for review.

### **SECTION 5.3.373 Review by Planning Commission**

- A. The Planning Commission shall review and provide comment on the public facilities proposal within sixty (60) days of the receipt of the complete application and site plan as prescribed in Section 5.3.372. The commission shall hold a duly noticed hearing on the proposal within forty-five (45) days of the application's receipt. Public notice of the hearing shall be provided in accordance with Section 5.3.303. Notice of the hearing shall be mailed to the entity proposing the construction or use and to all parties in interest no less than fifteen (15) days prior to the meeting. Notice of the meeting shall be given by certified mail. At the hearing, any party may appear in person or by agent or attorney.
- B. Pursuant to the hearing, the Planning Commission shall consider the location, extent, and character of the proposal. The commission shall review and provide written comment as to the compatibility of the proposal with the comprehensive plan. In the event the commission finds the proposal to be in conflict with the comprehensive plan, the commission shall transmit its findings and the particulars of the nonconformity to the entity proposing the facility. All findings shall be in writing and shall be sent to the entity and any other parties in interest by certified mail.

### **SECTION 5.3.374 Projects in Conflict with Comprehensive Plan; Notice of Construction; Exemptions**

- A. If the entity proposing the facility determines to go forward with the project which conflicts with the comprehensive plan, the governing or policy making body of the entity shall publicly state its intention to proceed and the reasons for the action. A copy of this finding must be sent to the Town Council, Planning Commission, and published as a public notice in a newspaper of general circulation in the community at least thirty (30) days prior to awarding a contract or beginning construction.
- B. Telephone, sewer and gas utilities, or electric suppliers, utilities and providers, whether publicly or privately owned, whose plans have been approved by the Town or a state or federal regulatory agency, or electric suppliers, utilities and providers who are acting in accordance with a legislatively delegated right pursuant to Chapter 27 or 21 or Chapter 49 of Title 33 of the State of South Carolina Code of Laws are exempt from the preceding review and notice of construction provisions of this division; however, such entities shall submit construction information as required by Section 5.3.372.

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### **SECTION 5.3.375 Conformance with Zoning and Development Regulation Provisions**

Public projects, activities, and uses governed by this Article shall comply with the zoning and land development requirements of this Chapter. The procedures and exceptions as provided in this Article shall not be construed as alleviating such requirements or to otherwise abridge the authority exercised by the Town pursuant to §6-29-770 of the State of South Carolina Code of Laws.

### **SECTIONS 5.3.376 through 5.3.379 Reserved**

## **DIVISION 8. TEXT AND MAP AMENDMENTS**

### **SECTION 5.3.380 Authority to Amend; Initiation**

When necessary, due to the general welfare of the Town, and after the required review and recommendation from the Planning Commission, the Town Council may amend, supplement, or change by ordinance the boundaries of the zoning districts or the zoning and development regulations held within this Chapter. Amendments to the zoning map may be initiated by the Administrator, Planning Commission, Town Council, or the property owner for which the amendment is sought. Text amendments to either the zoning or development regulations of this Chapter may be initiated by the Administrator, Planning Commission, Town Council, or in cases involving a Planned Development or Flexible Design District, the owner of such development.

### **SECTION 5.3.381 Application for Amendment**

- A. Application forms shall be obtained from the Administrator and the proposed text to be considered shall be set forth in full, by resolution or application, by the person or authority initiating the amendment. Where the proposed amendment involves a change in the zoning map, the application shall include:
1. A legal description and street address of the subject property, including a boundary map if property is not explicitly delineated on the Town map;
  2. Name, address, and phone number of the applicant;
  3. Name of property owner(s), applicant's interest in the property, as well as both the owner and applicants' signatures;
  4. Filing date of application;
  5. Names and addresses of all owners of property within 150 feet of the property being requested to be rezoned. The applicant shall rely on records contained in the Horry County Tax Assessors Office;
  6. Any additional information deemed necessary by the applicant to justify the zoning request; and
  7. An application fee, established under Section 5.3.302, to cover administrative costs.
- B. Completed applications must be submitted to the Administrator for processing. The Administrator shall review all papers and documents provided by the applicant before submitting the final application to the Planning Commission for a public hearing, review, and recommendation to Town Council.

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### **SECTION 5.3.382 Public Hearing Scheduling; Notice**

A public hearing shall be scheduled by the Planning Commission no later than forty-five (45) days after the filing of the application for a zoning map amendment (rezoning) with the Administrator. Notice of time and place of the hearing shall be published in accordance with Section 5.3.303. Any person(s) or groups that have expressed in writing to the Administrator an interest in being informed of zoning proceedings shall be mailed notice of the meeting not less than fifteen (15) days before the public hearing.

Notice shall be posted on or adjacent to the property affected, with at least one (1) notice visible from each public thoroughfare that abuts the property, at least fifteen (15) days prior to the public hearing. A letter of notification shall be mailed in accordance with Section 5.3.303(D) fifteen (15) days prior to the public hearing. The letter shall contain adequate information regarding the purpose of the rezoning request as well as the time and place of the scheduled hearing. In cases where the amendment is initiated by the Planning Commission or Town Council, written notice shall be provided to property owner(s) no less than thirty (30) days in advance of the public hearing.

In cases involving text amendments, the required public hearings are held by Town Council, as provided in Section 5.3.385.

### **SECTION 5.3.383 Hearing by Planning Commission**

Before the Town Council may enact any amendment to the zoning map, the Planning Commission shall hold a public hearing. All meetings and hearings of the Planning Commission shall be open to the public. Oral and written comments may be submitted to the Planning Commission by the applicant or any other interested member of the public, including owners of adjoining property. Additionally, any party may appear in person or by agent or attorney.

### **SECTION 5.3.384 Planning Commission Recommendation**

Except when initiated by the Planning Commission, the commission shall have thirty (30) days following the public hearing on the proposed zoning amendment, or in the case of a text amendment when the text amendment was first introduced, to submit its recommendation and report to the Town Council. This report shall contain a summary of all significant issues and concerns. Factors to be considered in the Planning Commission's recommendation shall include:

1. Whether or not the requested amendment is consistent with the Town's Comprehensive Plan or is justified by an error in the original text;
2. The precedents, and effect of such precedents, which might result from approval or denial of the application;
3. For zoning amendments, whether the uses permitted by the proposed change would be appropriate in the area concerned; and
4. The capacity of the Town or other governmental agencies to provide additional services, facilities, or infrastructure that might be required if the application was approved.

If the Planning Commission fails to submit a recommendation in the thirty (30) day period, it shall be deemed to have recommended approval for the requested amendment.

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### **SECTION 5.3.385 Hearing by Town Council**

Before the enactment of a text amendment to this Chapter, the Town Council shall hold a public hearing thereon. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the Town at least thirty (30) days in advance of the scheduled public hearing date. Any person(s) or groups that have expressed in writing an interest in being informed of such proceedings shall be mailed notice of the meeting not less than thirty (30) days before the public hearing. All meetings and hearings before the Town Council shall be open to the public. At the hearing, oral and written comments may be submitted by any interested member of the public. Any party may appear in person or by agent or by attorney.

### **SECTION 5.3.386 Town Council Action**

The Town Council shall consider the Planning Commission's recommendation for each proposed amendment, however, is not bound by the recommendation in making a final determination. All amendments, supplements, or changes to the zoning map or the text of this Chapter must be adopted by the Town Council as an ordinance in accordance with S.C. Code §5-7-270. If a proposed amendment is denied, such action shall be by resolution and the applicant shall be notified of the decision in writing. If Town Council fails to take action on an amendment within 365 days of its public hearing, the amendment shall be rejected and no other action by the Town Council shall be required.

### **SECTION 5.3.387 Limitation on Reapplication**

Following the decision of the Town Council, a property owner shall be prohibited from initiating a zoning map amendment affecting the same parcel of property, or any part thereof, more often than once every twelve (12) months unless continued with the mutual consent of both the applicant and the Planning Commission.

### **SECTIONS 5.3.388 through 5.3.389 Reserved**

## **DIVISION 9. VIOLATIONS & ENFORCEMENT ACTIONS**

### **SECTION 5.3.390 Recording of Unapproved Plan or Plat Constitutes Violation**

No subdivision plat or other land development plan within the Town of Atlantic Beach may be filed in the Office of the Horry County Register of Deeds nor shall a building permit be issued until the plat or plan bears the stamp of the Planning Commission and signature of the designated authority as provided within these regulations. Similarly, the owner or agent of the owner of any property being developed within the Town of Atlantic Beach may not transfer to any lot(s) or parts(s) of a land development unless a land development plan or subdivision has been approved by the Planning Commission or designated authority and such approved plan or plat is recorded in the Office of the Horry County Register of Deeds.

### **SECTION 5.3.391 Violations Declared as Misdemeanors**

It shall be unlawful for any person to construct, reconstruct, alter, demolish, change the use of or occupy any land building, or other structure, name a street, subdivide land or engage in any other development activity in violation of this Chapter or without first obtaining the appropriate permit or permit approval. Further, it is unlawful for other officials to issue any permit for the use of any land building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the Administrator. A violation of this Chapter or any ordinance or

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resolution adopted pursuant to the provisions of this Chapter is hereby declared to be a misdemeanor under the laws of the state, and upon conviction thereof, an offender shall be punished at the discretion of the court. Each day such violation continues shall be deemed a separate offense.

### **SECTION 5.3.392 Enforcement; Remedies for Violations**

The responsibility for the enforcement of this Chapter is delegated to the Administrator however, the Planning Commission, Town attorney, other appropriate administrative officer, or an adjacent or neighboring property owner who would be especially damaged by any violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to correct or abate the violation, or to prevent the occupancy of the building, structure, or land. This is in addition to the right of the Town to bring an enforcement action.

### **SECTION 5.3.393 Other Enforcement Actions**

If the Administrator shall find that any of the provisions of this Chapter are being or have been violated, he/she shall notify in writing via certified mail the person responsible for such violations setting forth the nature of the violation and may take enforcement action including, but not limited to, withholding of building or zoning permits, issuance of stop orders against any work undertaken by an entity not having a proper building or zoning permit until in compliance with this Chapter, or in the case of illegal signs, impoundment of property. Nothing in this section shall prevent the Town from taking such other lawful action as necessary to prevent or remedy any violation.

### **SECTION 5.3.394 Violations Continue**

Any violation of the previous Land Management Ordinance, before the enactment of this Chapter, shall continue to be a violation. Resolving the violation shall require conformance to the regulations in effect at the time the violation is terminated, not the regulations that may have been in effect at the time the violation was initiated. Any violation that was not discovered by the Town under the previous Land Management Ordinance, shall be resolved under the provisions of this Chapter. The lack of prior enforcement shall not constitute any degree of, recognition, approval, or entitlement.

### **SECTIONS 5.3.395 through 5.3.399 Reserved**

## **ARTICLE III. REVIEW PROCEDURES & ENFORCEMENT**

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# ARTICLE IV. ZONING DISTRICTS

## DIVISION 1. DISTRICTS IN GENERAL

### SECTION 5.3.400 Zoning Districts Established

In order to classify, regulate, and restrict the locations of uses and buildings and to regulate and determine the areas of yards and open spaces, height, floor area, density, and other features within or surrounding such uses and buildings, property is hereby classified into the following districts:

CP	Conservation Preservation District
R2	Residential District
MS1	Main Street 1 District
MS1R	Main Street 1 Residential District
MS2	Main Street 2 District
G	Government District
HWY	US 17 District
WF1	Waterfront 1 District
WF2	Waterfront 2 District

The individual districts may be cited by full title, e.g. Waterfront 1 District, or by abbreviated reference, e.g. WF1.

### SECTION 5.3.401 District Intent

The districts created by this Article are intended to advance the purposes of this Chapter as stated in the preamble. Individually, each district is designed and intended to accomplish the following specific objectives:

- 5.2.401.1** Conservation Preservation (CP). The intent of this district is to regulate very low intensity development in environmentally sensitive areas along the beachfront. Only development which provides negligible disruption to natural features or systems, whether temporarily or permanently, will be allowed.
- 5.2.401.2** Residential (R2). The intent of this district is to preserve and protect the character of Atlantic Beach neighborhoods. Residential uses range from single-family detached to multi-family at densities that are compatible with existing housing. This district may provide for innovative design including, but not limited to, zero-lot-line development. Select nonresidential uses may be allowed in this district provided such uses are complementary and do not create nuisances to residential enjoyment.
- 5.2.401.3** Main Street 1 (MS1). The intent of this district is to provide and encourage a mixture of uses. Single uses are allowed to promote and ease infill development. Permitted uses include neighborhood scale (less than 20,000) retail and office uses as well as multi-family and transient residential uses. When mixed-use development is utilized in the same building or lot, residential uses shall be located to the rear or upper levels.
- 5.2.401.4** Main Street 1 Residential (MS1R). The intent of this district is to promote a mixture of uses similar to the MS1 District. Unlike the MS1 District, this district provides the option for single-family housing. Additional safeguards are required for select nonresidential uses, given this district's inclusion of single-family housing.
- 5.2.401.5** Main Street 2 (MS2). The intent of this district is to provide pedestrian oriented medium density development. Mixed-use development is required for development on multiple lots or lots greater than 10,000 square feet. Uses are intended to include retail, dining, nightclub,

## ARTICLE IV. ZONING DISTRICTS

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cultural uses (e.g. entertainment uses), and complementary land uses with upper levels consisting of residential and transient residential uses.

- 5.2.401.6** Government (G). The intent of this district is to allow for the development of facilities for local government, public health, recreational, cultural, or educational activities.
- 5.2.401.7** US 17 (HWY). The intent of this district is to provide for highway oriented retail and office development. The district as a whole is intended to be mixed-use and the development of mixed-use projects should be encouraged; however, single uses may be allowed in order to promote and ease infill development. Single use (standalone) residential development is not permitted. Uses should be composed of retail and office uses as well as multi-family and transient residential uses. Residential uses are discouraged at the street level.
- 5.3.401.8** Waterfront 1 (WFI). The intent of this district is to provide for pedestrian oriented, beachfront medium-density residential and mixed-use development. Mixed-use development is required in conjunction with multi-family development. Uses are intended to be composed of retail, dining, nightclub, and cultural uses while upper levels are generally composed of residential or transient residential uses.
- 5.2.401.9** Waterfront 2 (WF2). The intent of this district is to provide for pedestrian oriented, beachfront high-density residential and mixed-use development. Mixed-use development is required in conjunction with multi-family development. Uses are intended to be composed of retail, dining, nightclub, and cultural uses while upper levels are generally composed of residential or transient residential uses. This district is intended to provide greater floor area and height than the Waterfront 1 District.

### SECTION 5.3.402 Official Zoning Map

- A. The boundaries of the zoning districts established by this Chapter are shown on the official zoning map entitled the “Zoning Map of the Town of Atlantic Beach, South Carolina”. This map shall be identified by the signature of the mayor, attested by the Town Clerk, and maintained at Town Hall. The official zoning map and all amendments, certifications, citations, and other matters entered on to the official zoning map are hereby made a part of this Chapter and have the same legal effect as if fully set out herein. No changes of any nature shall be made to the official zoning map or matters shown thereon except in conformity with the procedures set forth by this Chapter.
- B. Where uncertainty exists as to the boundaries of districts shown on the official zoning map, the following rules shall apply:
1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or public utility easements shall be construed to follow such lines;
  2. Boundaries indicated as approximately following platted lot or tract lines shall be construed as following such lines, whether public or private;
  3. Boundaries indicated as approximately following the Town limit line shall be construed as following such Town limit;
  4. Boundaries indicated as following the center lines of natural barriers such as rivers and streams, shall be construed to follow such center lines;
  5. If distances are not specifically indicated on the official zoning map, or if other circumstances are not addressed by parts 1 through 4 above, the boundaries shall be determined by the use of the scale of such map; and

## **ARTICLE IV. ZONING DISTRICTS**

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6. All questions involving district boundaries, as illustrated on the official map, shall be submitted to the Administrator for a determination. Any appeal of a determination of the Administrator is made to the Board of Zoning Appeals as provided by this Chapter.

### **SECTION 5.3.403 Annexed Territory**

Any territory hereafter annexed shall automatically, upon such annexation, be classified as an R2 district and be subject to all conditions and regulations applicable to property in such district.

### **SECTIONS 5.3.404 through 5.3.419 Reserved**

# ARTICLE IV. ZONING DISTRICTS

## DIVISION 2. BULK, DIMENSIONAL, AND DENSITY STANDARDS

### SECTION 5.3.420 District Standards

Parcels within the individual districts are subject to bulk, dimensional, and density standards including, but not limited to, lot size, lot width, setbacks and required yards, building height, floor area ratio, and coverage maximums. The standards provided in Table 5.3.420A are the general requirements for the Town’s zoning districts. Where the use conditions prescribed by Article V or other provisions of this Chapter establish more restrictive standards than those found in Table 5.3.420A, the more restrictive standard shall apply.

STANDARDS	DISTRICTS								
	CP	R2	MS1	MS1R	MS2	G	HWY	WF1	WF2
Minimum Lot Area (in square feet)	None	6,000	7,000	7,000	7,000	7,500	15,000	22,500	22,500
Minimum Lot Width (in feet)	None	35	50	50	50	50	100	150	150
Maximum Structure Height		45 feet and no more than 3 stories	55 feet and no more than 5 stories	55 feet and no more than 5 stories	85 feet and no more than 8 stories	55 feet and no more than 5 stories	55 feet and no more than 5 stories	55 feet and no more than 5 stories	125 feet and no more than 12 stories
Maximum Building Coverage		40%	60%	50%	70%	60%	60%	45%	50%
Maximum Impervious Surface Coverage		40%	60%	50%	70%	65%	70%	45%	50%
Minimum Open Space	100%	55%	30%	40%	20%	20%	20%	45%	40%
Maximum Floor Area Ratio					1.75			.75	2.0
Density (minimum lot area in square feet per dwelling unit)									
Single-Family, attached		3,000		3,750					
Single-Family, detached		6,000		4,500					
Two-Family Dwellings		3,000		3,750					
Multi-Family		6,000	2,500	3,000	2,000		2,000	3,000	1,500

# ARTICLE IV. ZONING DISTRICTS

Table 5.3.420A

## District Bulk, Dimensional & Density Standards <sup>(1)(2)(3)</sup>

STANDARDS	DISTRICTS								
	CP	R2	MS1	MS1R	MS2	G	HWY	WF1 (1)	WF2(1)
<b>Front Yard Setback (in feet) by Abutting Street/Feature</b>									
Oceanfront		25	10	10	10	10	10	30 <sup>(2)</sup>	30 <sup>(2)</sup>
1 <sup>st</sup> Avenue		25	10	10	10	10	10	10	10
2 <sup>nd</sup> Avenue		25	10	10	10	10	10	10	10
3 <sup>rd</sup> Avenue		25	10	10	10	10	10	10	10
4 <sup>th</sup> Avenue		25	10	10	10	10	10	10	10
29 <sup>th</sup> Avenue S.		25	10	10	10	10	10	10	10
30 <sup>th</sup> Avenue S.		25	10	10	10	10	10	10	25
31 <sup>st</sup> Avenue S.		25	10	10	10	10	10	10	10
32 <sup>nd</sup> Avenue S.		25	10	10	10	10	10	10	10
US Hwy 17		25	20	20	20	20	20	25	25
All other Street Frontages		25	10	10	10	10	10	25	25
<b>Front Yard Setback (in feet) for Building Heights Above 35 Feet by Abutting Street/Feature (where applicable)</b>									
3 <sup>rd</sup> Avenue		25	10	10		10	10		
4 <sup>th</sup> Avenue		25	20	20		10	20		
29 <sup>th</sup> Avenue S.		25	20	20		10	20		
30 <sup>th</sup> Avenue S.		25	20	20		10	20		
31 <sup>st</sup> Avenue S.		25	20	20		10	20		
32 <sup>nd</sup> Avenue S.		25	20	20		10	20		
US Hwy 17		25	20	20		20	20		
<b>Front Yard Setback (in feet) for Building Heights Above 45 Feet by Abutting Street/Feature (where applicable)</b>									
Oceanfront								60	60

# ARTICLE IV. ZONING DISTRICTS

Table 5.3.420A

## District BULK, Dimensional & Density Standards <sup>(1)(2)</sup>

STANDARDS	DISTRICTS								
	CP	R2	MS1	MS1R	MS2	G	HWY	WF1	WF2
1 <sup>st</sup> Avenue								30	
2 <sup>nd</sup> Avenue					30			30	
29 <sup>th</sup> Avenue S.					30				30
30 <sup>th</sup> Avenue S.					60				75
31 <sup>st</sup> Avenue S.					30			30	30
<b>Front Yard Setback (in feet) for Building Heights Above 45 Feet by Abutting Street/Feature (where applicable)</b>									
32 <sup>nd</sup> Avenue S.					20			30	30
<b>Side Yard Setback (in feet)</b>									
Lots up to 8,000 square feet in area		5	5	5	5	5	5	5 (3)	5 (3)
Lots 8,000 to 15,999 square feet in area		5	10	10	10	5	10	5 (3)	5 (3)
Lots 16,000 square feet in area or greater		5	15	15	15	5	15	5 (3)	5 (3)
<b>Rear Yard Setback (in feet)</b>									
Lots less than 8,000 square feet in area		20	15	15	15	5	15	10	10
Lots 8,000 square feet or greater in area		20	30	30	30	5	15	10	10

**Notes:** (1) WF1 and WF2 properties may be eligible for designation as a Flexible Design District. This designation provides alternate height, coverage, FAR, and density standards.  
 (2) At structure heights of 45 feet and greater, the front yard setback (oceanfront) in the WF1 and WF2 districts is 60 feet. The oceanfront setback for lots northeast of 29<sup>th</sup> Avenue South and southeast of 32<sup>nd</sup> Avenue South is 5 feet, irrespective of height.  
 (3) At structure heights of 45 feet and greater, the side yard setback in the WF1 and WF2 districts is increased to a distance equal to the front yard setback applicable to the lot.

## ARTICLE IV. ZONING DISTRICTS

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### SECTION 5.3.421 Small or Irregular Lot Exception

The bulk and dimensional standards of this Article shall not be applied to reduce the buildable area of any lot, existing prior to the adoption of this Chapter, to less than 1,500 square feet. The Administrator is authorized to proportionally reduce setback and coverage standards as provided in Table 5.3.420A to ensure conformance with this section.

### SECTIONS 5.3.422 through 5.3.429 Reserved

## DIVISION 3. APPLICATION OF STANDARDS

### SECTION 5.3.430 Height

- A. For lots located in an area of special flood hazard as illustrated on the Flood Insurance Rate Map (FIRM), maximum structure height shall be calculated from a point three (3) feet above the base flood elevation. For all other lots, maximum height shall be calculated from the highest finished grade within five (5) feet of the structure.
- B. Calculations of the height limits shall be to the highest point of the structure. The calculation of height does not include typical projections such as parapets, elevator equipment, and other mechanical systems.
- C. Certain facilities, due to their intrinsic functional nature, may require heights exceeding the specified limit. These include, but are not limited to, telecommunication towers, antennae, water storage tanks, and utility transmission lines. These facilities shall require the review and approval of the Administrator or, where specified by this Chapter, the Board of Zoning Appeals. Where height limitations for these facilities are not specifically restricted by this Chapter, the Administrator shall consider and determine that the location is appropriate and the structure's height is no more than absolutely necessary to carry out its function.
- D. At the discretion of the Administrator, architectural elements such as church steeples, spires, and chimneys may exceed the otherwise allowable height by twenty (20) percent.

### SECTION 5.3.431 Floor Area Ratio

Floor area ratio calculations shall be based on the gross lot area that is defined by the property lines. Floor area calculations do not include parking, mechanical, stairwell, and common corridor areas. Within the WF1, WF2, and MS2 districts, publicly accessible entertainment uses are not included in the floor area calculations.

### SECTION 5.3.432 Setbacks

- A. Setbacks, regardless of applicable height, shall be measured from the property line (or upward projection thereof) to the nearest portion of a structure, including overhangs, eaves, private decks, stairways, steps, and mechanical equipment. The setback distance is measured horizontally in a straight-line, irrespective of intervening structures or site features.
- B. Except where otherwise specified, setback requirements are not cumulative (i.e. buffer distances and other setbacks provided by this Chapter, are inclusive of, not in addition to, the standard setbacks for the district). Where a district requires an increased setback above a specified height, only that portion of the structure above the specified height is subject to the increased setback.

## ARTICLE IV. ZONING DISTRICTS

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- C. In the MS1, MS2, WF1, and WF2 districts, street level arcades, awnings, and other pedestrian amenities may encroach into the setback by a distance of no more than ten (10) feet, provided such projection does not obstruct a sidewalk or other pedestrian way and that a minimum of eight (8) feet of height clearance is maintained.
- D. Any yard abutting a public right-of-way or the oceanfront is subject to the front yard setbacks specified by Table 5.3.420A (see table “notes” for special WF1 and WF2 setbacks).
- E. Special setback standards for accessory structures and parking are provided in Article VI. No setback shall be required for landscaping, lagoons, retaining walls, street lights, and similar amenities.
- F. Zero Lot Line development (single-family, attached), where permitted, are exempt from the interior side yard setback requirements of this Article and are subject to the standards of Section 5.3.572.

### SECTIONS 5.3.433 through 5.3.439 Reserved

## DIVISION 4. PLANNED DEVELOPMENT DISTRICTS

### SECTION 5.3.440 Description and Intent

A “Planned Development” as defined by Title 6, Chapter 29 (6-29-740) of the State of South Carolina Code of Laws is a type of zoning district (PD) and a type of development plan. PD zoning districts are inextricably linked to planned development master plans, in that no rights of development apply to a PD zoning designation other than those of the approved planned development master plan.

The planned development provisions of this Article are intended to encourage innovative site planning for residential, professional, commercial, and industrial developments within planned development districts. These districts are further intended to allow flexibility that will result in improved design, character, and quality of new mixed-use developments and preserve natural and scenic features. Planned development districts, as permitted under this Article, are intended to provide variations from the standards of other districts relating to use, setback, lot size, density, bulk, and other requirements provided such variations are in keeping with the Town of Atlantic Beach Comprehensive Plan.

### SECTION 5.3.441 Eligibility for Designation

Any property or contiguous group of properties within the Town that total one (1) acre or greater area may be considered for designation as a planned development district. A planned development district must incorporate a design involving a mixture of housing types and densities and compatible commercial uses, or shopping centers, office parks, and mixed-use developments. Single use or single housing type developments shall not be designated as a planned development.

### SECTION 5.3.442 Designation to Constitute a Text and Map Amendment

The designation of a property as a planned development district shall constitute a zoning text and map amendment. The requirements of the original zoning district are thereafter supplanted by those of the planned development district. Except as provided by this Article, the rezoning of property to a planned development district shall follow the zoning text and map amendment procedures specified in Article III of this Chapter.

## **ARTICLE IV. ZONING DISTRICTS**

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### **SECTION 5.3.443 Effect on Other Ordinances and Rules of General Applicability**

Planned development districts are subject to all other ordinances applicable to development within the Town. Unless expressly stated in this Article or provided within the zoning text establishing the planned development district, all lands within a planned development district are subject to this Chapter's requirements of general applicability affecting uses, lots, structures, parking, and other features, including Articles I, II, III, VI, VII, VIII, and IX.

### **SECTION 5.3.444 Area**

A planned development district shall have a land area of not less than one (1) acre, exclusive of streets or other rights-of-way.

### **SECTION 5.3.445 Common Area Required**

No less than twenty (20) percent of the total land area within a planned development district shall be reserved or dedicated as common open space. Preservation, maintenance, and ownership of required open space within the development shall be accomplished by either (a) the dedication of the land as a public park or parkway system or (b) creating a permanent open space easement on and over said private open space to guarantee that the open space remains perpetually in recreational use, with the ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws which are satisfactory to the Town Council.

### **SECTION 5.3.446 Maximum Allowed Density**

The maximum permitted density within a planned development district shall not exceed one (1) single-family detached dwelling per every 3,500 square feet of lot area, one (1) single-family attached dwelling unit per every 3,000 square feet of lot area, one (1) two-family (duplex – 2 units) per every 6,000 square feet of lot area, and/or one (1) multi-family dwelling unit per every 1,000 square feet of lot area. Individual planned development districts may, through the text creating the district, impose density standards more restrictive than those of this section.

### **SECTION 5.3.447 Maximum Building Coverage**

The maximum building coverage shall not exceed sixty (60) percent of the total area of the planned development. Individual planned development districts may, through the text creating the district, impose building coverage standards more restrictive than those of this section.

### **SECTION 5.3.448 Minimum Perimeter Setbacks**

A side yard that abuts another zoning district shall observe along that side yard a minimum setback of fifteen (15) feet. A rear yard that abuts another zoning district shall observe along that rear yard a minimum setback of twenty-five (25) feet. Individual planned development districts may, through the text creating the district, impose setback standards more restrictive than those of this section.

### **SECTION 5.3.449 Required Exhibits and Approval Process**

Except as provided in this section, the approval of a planned development shall follow the zoning map and text amendment procedures provided in Article III. In addition to the exhibits required by Article III, the following is required prior to the review and approval of a planned development:

## ARTICLE IV. ZONING DISTRICTS

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- A. **Sketch Plan.** Prior to a formal application being filed to rezone a property(s) to a planned development district, a sketch plan shall be submitted to the Administrator. The sketch plan shall illustrate the boundaries of the proposed areas to be rezoned to a planned development, the proposed land uses, a proposed lot layout and street configuration, estimated gross densities, and estimated useable common open space.

The Administrator shall submit the proposed sketch plan to the Planning Commission with a recommendation as to whether the proposed design concept is consistent with the Comprehensive Plan and planned development standards. The Planning Commission shall either instruct the applicant to proceed with drafting a detailed master plan based on the proposed sketch plan or to resubmit a revised sketch plan.

- B. **Master Plan Required.** The applicant shall prepare and submit a detailed master plan for the entire planned development district to the Planning Commission. The master plan shall contain all relevant information deemed necessary by the Planning Commission and the Administrator. Relevant information and exhibits shall include but shall not be limited to the following:

1. **Site Development Plan.** A site development plan shall be submitted that illustrates:
  - a. The surveyed boundary of the district including approximate interior property lines when future division is permitted;
  - b. Proposed land uses for each lot within the district;
  - c. The location of existing and proposed utilities, streets, easements, and other rights-of-way;
  - d. The location and proposed use of existing and planned buildings;
  - e. The location of parking lots, drives, and walkways;
  - f. The location and acreage of common open spaces; and
  - g. Topographical data including existing and proposed contour elevations, areas of special flood hazard, drainage easements, and storm water detention basins and easements.
2. **District Text.** Proposed text that establishes the requirements of the planned development district shall be submitted. At a minimum, the proposed text shall include:
  - a. The name of the planned development district, not duplicating the name of any other planned development or subdivision;
  - b. A statement of the intent and objectives of the proposed district;
  - c. A legal description of the district boundaries, including the location and acreage of varying densities, uses, or other areas subject to special requirements;
  - d. A table of proposed land uses including:
    - (1) A listing of uses to be allowed within the proposed district, specifying where applicable, the total acreage for each use,
    - (2) Proposed maximum and average residential densities for each residential use,
    - (3) The maximum proposed floor area ratios, if any, and the maximum building/lot coverage for each use or for the district as a whole,

## ARTICLE IV. ZONING DISTRICTS

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- (4) The maximum height for each use or for the district as a whole,
- (5) The minimum setbacks for each use or for the district as a whole, and
- (6) The minimum separation distance, if any, between buildings or uses.
- e. A written narrative of any special requirements imposed on development within the district such as landscaping, lighting, architectural, and/or orientation standards;
- f. A provision which precludes the application of variances from the planned development district's requirements and incorporates, by reference, the minor and major master plan amendment sections of this Article; and
- g. A provision which enumerates, other than district requirements, the specific requirements of this Chapter which are not applicable to or that are amended upon approval of the planned development's master plan.

### SECTION 5.3.450 Master Plan Modifications and Amendments

- A. No modification or master plan amendment shall be approved that exceeds the standards of this division or the Comprehensive Plan. Unless otherwise provided in the master plan approved by the Town Council, modifications and master plan amendments shall comply with this section.
- A. **Modifications.** Minor changes in the planned development's master plan may be approved by the Administrator provided that such changes do not 1. increase the density of the planned development; 2. change the exterior boundaries of the planned development or alter the permitted height of structures; 3. increase the intensity of land use; 4. increase the number of lots (where subdivision has been approved); 5. materially change the location or amount of land devoted to a specific land use; or 6. alter or conflict with the planned development district's text. Modifications may include, but are not limited to: the minor shifting of buildings, proposed streets, public or private ways, utility easements, parks or other public open spaces, or other features of the plan. The minor shifting of buildings does not include encroaching into any required setback.
- B. **Amendments.** Major changes in an approved planned development shall be considered an amendment to the original ordinance and shall require a public hearing, review and recommendation by the Planning Commission, and approval by Town Council. Major changes may include, but are not limited to, the following: 1. increases in density; 2. changes in the exterior boundary lines of the planned development district or alterations in the allowable height; 3. changes in the intensity of land uses including changes in the number or size of permitted signs, an increase in the size of buildings, increased traffic generation by more than ten (10) percent, increased impervious surface by more than five (5) percent, and/or reduced open space; 4. changes in the location or amount of land devoted to specific land uses; 5. the creation of any new lot; or 6. any change that requires the text of the planned development district to be altered.

### SECTION 5.3.451 Conformance with Development Regulations and Surety Requirements

When a planned development district's master plan provides for the dedication of land for rights-of-way, parks, or other public spaces; requires the division of property into two (2) or more lots; or necessitates the installation of other public improvements, zoning permits for property within the planned development shall not be issued until a final plat has been approved by the Planning Commission in accordance with the standards of this Chapter. Where the final plat is to be recorded prior to the installation of public improvements, the Planning Commission shall require the posting of a surety instrument (bond, certified

## ARTICLE IV. ZONING DISTRICTS

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check, or other instrument readily convertible to cash) to guarantee the installation and/or dedication of required improvements.

### SECTION 5.3.452 Recording

All plats and plans approved under the terms of this division shall be recorded in the Office of the Horry County Register of Deeds.

### SECTIONS 5.3.453 through 5.3.455 Reserved

## DIVISION 5. Flexible Design Districts (Floating Zones)

### SECTION 5.3.456 Purpose and Intent

The intent of the Flexible Design District(s) (FDD) is to provide for higher intensity development along the oceanfront, while providing for a higher level of design and public amenities consistent with the Town of Atlantic Beach Comprehensive Plan and 2007 Master Plan. This division provides two (2) floating zone district options: The Waterfront 1 Flexible Design District (WF1-FDD) and the Waterfront 2 Flexible Design District (WF2-FDD). Each district is designed to complement the character and the uses allowable within the WF1 or WF2 zoning districts. However, the Flexible Design Districts provide for greater height, floor area ratio, density, and building coverage than fixed zoning districts described in Section 5.3.400, through the use of incentivized flexible development standards.

### SECTION 5.3.457 Creation of Flexible Design Districts (Floating Zones)

- A. In addition to the districts provided by Section 5.3.400 et seq. and Division 4, the following districts are hereby created:
  - Waterfront 1 Flexible Design District (WF1-FDD)
  - Waterfront 2 Flexible Design District (WF2-FDD)
- B. The individual districts may be cited by full title, e.g. Waterfront 1 Flexible Design District or by abbreviated reference, e.g. WF1-FDD. Collectively, these districts and affected properties may be referred to as “the FDD”, “floating zoning districts” or “FDD properties.” The requirements for properties in the FDD are based on the floating zone district standards approved by an ordinance of the Town Council. Properties rezoned to a floating zone district will be designated, by legislative act by the Council, with a unique name or identifier as a prefix to the zone’s title, for example: “Atlantic Avenue Oceanfront Plaza WF2-FDD.”

### SECTION 5.3.458 Eligibility for Designation

- A. Any WF1 zoned property or contiguous group of WF1 zoned properties within the Town that total 15,000 square feet or greater may be considered for designation as WF1-FDD.
- B. Any WF2 zoned property or contiguous group of WF2 zoned properties within the Town that total 20,000 square feet or greater may be considered for designation as WF2-FDD.

## ARTICLE IV. ZONING DISTRICTS

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### SECTION 5.3.459 Designation to Constitute a Text and Map Amendment

The designation of a property as a Flexible Design District (WF1-FDD or WF2-FDD) shall constitute a zoning text and map amendment. The rezoning of a property(s) to an FDD may only be initiated by the owner of said property. Following approval by the Town Council, the requirements of the respective WF1 or WF2 zoning district are thereafter supplanted by those of the FDD. Except as provided by this division, the rezoning of property to an FDD shall follow the zoning text and map amendment procedures specified in Article III of this Chapter.

### SECTION 5.3.460 Effect on Other Ordinances and Rules of General Applicability

FDDs are subject to all other ordinances applicable to development within the Town. Unless expressly stated in this division or provided within the zoning text establishing the floating zone, all lands within an FDD are subject to this Chapter's requirements of general applicability affecting uses, lots, structures, parking, and other features.

### SECTION 5.3.461 Use, Bulk, Dimensional, and Density Standards of the FDD

- A. **Use Standards.** In order to maintain a consistent character within the Town's waterfront districts, the uses allowed within the WF1 and WF2 districts, as provided in Table 5.3.502, apply to WF1-FDD and WF2-FDD, respectfully. The ordinance creating a WF1-FDD or WF2-FDD may prohibit, restrict, or require a greater level of approval review than provided in WF1 or WF2, as applicable, but may not allow prohibited uses or a lesser level of approval review than as provided in Table 5.3.502.
- B. **Bulk, Dimensional, and Density Standards.** Similarly, except as provided in Table 5.3.461A, the bulk, dimensional, and density standards of the WF1 or WF2 districts, as provided in Table 5.3.420A, shall apply to WF1-FDD and WF2-FDD, respectfully. The ordinance creating a WF1-FDD or WF2-FDD may provide different height, coverage, open space, density, and FAR standards of the WF1 and WF2 districts, only as provided in Table 5.3.461A.

# ARTICLE IV. ZONING DISTRICTS

**Table 5.3.461A  
District Bulk, Dimensional & Density Standards**

STANDARDS		EXTENT OF PUBLIC AMENITY FEATURES AND DISTRICT STANDARDS*							
		Less than 1%		1% but less than 2%		2% but less than 3%		3% or greater	
		WF1-FDD	WF2-FDD	WF1-FDD	WF2-FDD	WF1-FDD	WF2-FDD	WF1-FDD	WF2-FDD
Maximum Structure Height	55 feet and no more than 5 stories	125 feet and no more than 12 stories	65 feet and no more than 5 stories	145 feet and no more than 14 stories	75 feet and no more than 5 stories	165 feet and no more than 16 stories	85 feet and no more than 8 stories	200 feet and no more than 20 stories	
Maximum Building Coverage	45%	50%	50%	55%	55%	60%	60%	70%	
Maximum Impervious Surface Coverage	45%	50%	55%	60%	60%	65%	65%	80%	
Minimum Open Space	45%	40%	40%	35%	35%	25%	30%	15%	
Maximum Floor Area Ratio	.75	2.0	1.0	2.5	1.25	3.0	1.5	4.0	
Density (minimum lot area in square feet per dwelling unit)									
Multi-Family	3,000	1,500	2,250	1,125	1,500	750	750	375	

\* Note: This table provides the maximum allowable height, coverage, FAR, and density for the WF1-FDD and WF2-FDD based on the provision of public amenity features as a percentage of total development costs. The ordinance creating each floating zone may provide standards more restrictive than those provided above.

## SECTION 5.3.462 FDD Floating Zone Approval Process

In addition to the exhibits required by Article III for zoning map and text amendments, the following are required prior to the review and approval of an FDD:

- A. **Pre-Application Conceptual Plan.** Prior to a formal application being filed to rezone a property(s) to a flexible design district, under subsection B, below, a conceptual plan shall be submitted to the Administrator. The conceptual plan shall illustrate the boundaries of the proposed areas to be rezoned to an FDD, the proposed land uses, proposed bulk, dimensional, and height limitations, proposed public amenity features, a proposed lot layout and street configuration, estimated gross

## ARTICLE IV. ZONING DISTRICTS

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densities, estimated useable open space, and estimated total development costs and costs of public amenity features.

The Administrator shall submit the proposed conceptual plan to the Planning Commission with a recommendation as to whether the proposed design concept is consistent with the Comprehensive Plan and FDD standards. Within thirty (30) days of its review, the Planning Commission shall either instruct the applicant to proceed with drafting a detailed FDD design plan and zoning text, based on the proposed conceptual plan, or to resubmit a revised conceptual plan for additional input from the Administrator or Planning Commission.

**B. Floating Zone District Application.** In addition to the requirements of Section 5.3.381, an applicant for a rezoning under this division shall include the following in an application for rezoning to FDD:

1. Total development costs, with a categorization of costs, including construction, land, demolition, utility relocation, and the percent required to develop public amenity facilities;
2. Public amenity features, including a description of their nature; location; public accessibility, including any limitations on public access; design standards and features; costs to construct; schedule for construction; and proposed manner of ongoing maintenance, ownership, and control, including proposed legal instruments and other guarantees to ensure installation, maintenance, and perpetual public use.
3. A listing of uses within the proposed district, specifying the total acreage for each use, based on proposed FDD district standards;
4. Illustrative east, west, north, south elevations of the district boundaries; and
5. FDD district standards, as provided in subsection C, below.

**C. Floating Zone District Standards.** In addition to the requirements of Section 5.3.381, an applicant for a rezoning under this division shall prepare and submit FDD district standards proposed for any lands redesignated as an FDD floating zone to the Administrator. The district standards shall contain all relevant standards proposed by the applicant or recommended by the Planning Commission and the Administrator. District standards shall include the following:

1. **FDD Zoning Text.** Proposed text that establishes the requirements of the flexible design district shall be submitted. At a minimum, the proposed FDD zoning text shall include:
  - a. The name of the flexible design district, not duplicating the name of any other FDD or subdivision;
  - b. A statement of the intent and objectives of the proposed district;
  - c. A legal description of the district boundaries, including the location and acreage of varying densities, uses, or other areas subject to special requirements;
  - d. A table of the following proposed land uses & standards:
    - (1) Uses permitted within the proposed FDD, in accordance with Section 5.3.461(A), and the level of approval review required;
    - (2) Maximum and average residential densities for each residential use,
    - (3) Maximum proposed floor area ratios and building/lot coverages for each non-residential use,

## ARTICLE IV. ZONING DISTRICTS

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- (4) Maximum allowable height for each use or for the district as a whole,
  - (5) The minimum setbacks for each use or for the district as a whole,
  - (6) The minimum separation distance, if any, required between buildings or uses; and
  - (7) Public amenity facilities and provisions related to their use, maintenance, and the legal mechanism for guaranteeing perpetual use and maintenance, including easements, dedication agreements, or other surety proposed by the applicant.
  - (8) Any special requirements imposed on development within the district such as landscaping, lighting, architectural, and/or orientation standards.
- f. A provision which precludes the application of variances from the flexible design district's requirements and incorporates, by reference, Section 5.3.464; and
  - g. A provision which enumerates any requirements of this Chapter that are not applicable to or that are amended upon approval of the flexible design district.
2. FDD Design Plan. An FDD design plan shall be submitted that illustrates:
    - a. The surveyed boundary of the district, interior property lines, if multiple parcels, including approximate interior property lines when future division is proposed and permitted;
    - b. The location of existing and proposed utilities, streets, easements, and other rights-of-way;
    - c. The location and proposed use of existing and planned buildings;
    - e. The location of parking lots, drives, and walkways;
    - f. The location and acreage of open spaces;
    - g. Topographical data including existing and proposed contour elevations, areas of special flood hazard, drainage easements, and storm water detention easements; and
    - h. The location, acreage, use of public amenity features.

### SECTION 5.3.463 Planning Commission Recommendation

- A. In addition to the review criteria for map and text amendments contained in Section 5.3.384, the Planning Commission shall consider the nature, need, and conformance of proposed FDD public amenity features to the comprehensive plan. Public amenity features proposed in an FDD floating zone, with total development costs exceeding \$10,000,000, may be considered by the Planning Commission and Town Council in determining eligibility for floating zone designation. Public amenity facilities eligible for the flexible district standards described in Section 5.3.461, include, but are not limited to:
  1. Unimproved and improved beach access, a minimum of ten (10) feet in width,
  2. Parks and common open spaces of no less than 500 square feet,
  3. Ocean viewing or observation decks (indoor or outdoor),

## ARTICLE IV. ZONING DISTRICTS

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4. The construction of public streets and other rights-of-way, consistent with Town and state transportation plans and standards;
  5. Sidewalks and other in-right-of-way pedestrian or bicycle improvements, consistent with Town and state transportation plans and standards;
  6. Right-of-way or improvements located in adjacent right-of-way, such as benches, planters, shelters, drinking fountains, bike racks, decorative lighting, commemorative signage, and improvements that enhance handicapped accessibility; and
  7. Publicly-available parking; restrooms; and shower facilities associated with recreational uses.
- B. In addition to the standards in Article III, Division 8, the Planning Commission in its recommendation and the Town Council in its final action on a proposed FDD floating zone are not obligated to accept or deem eligible any proposed public amenity facility deemed not in compliance with this division, the other applicable provisions of the LMO, or the Comprehensive Plan.
- C. The flexible district standards in Table 5.3.461A apply based solely on the percentage costs of proposed public amenity facilities, included in the proposed FDD district standards, in relation to total development costs, as provided in this division and Table 5.3.461A.
- D. Following a recommendation by the Planning Commission, the Town Council shall make a final determination whether to approve or deny a request for an FDD floating zoning.

### SECTION 5.3.464 Minor Design Plan Modifications and FDD Amendments

- A. No minor design plan modification or FDD amendment shall be approved that exceeds the standards of this division or the Comprehensive Plan. Unless provided otherwise in an FDD floating zone approved by the Town Council pursuant to Section 5.3.463, minor design plan modifications and FDD amendments shall comply with this section.
- B. **Minor Design Plan Modifications.** Minor modifications in an approved FDD design plan may be approved by the Administrator provided that such changes do not constitute an FDD amendment, as defined in subsection C, below and do not conflict with approved FDD district standards. Minor modifications may include, but are not limited to: the minor shifting of buildings, proposed streets, public or private ways, utility easements, parks or other public open spaces, or other features of the design plan.
- C. **FDD Amendments.** Major changes in an approved FDD floating zone shall be considered an amendment to the ordinance adopting the FDD standards and shall require a public hearing, review and recommendation by the Planning Commission, and approval by Town Council, as required by this division and Article III. Such major changes include:
1. Increases in density in excess of the approved FDD district standards;
  2. Changes in the exterior boundaries of the flexible design district;
  3. Alterations to the height of structures in excess of the approved FDD district standards;
  4. Increases in the intensity of nonresidential land uses in excess of the approved FDD district standards;
  5. Increases in the number of lots (where subdivision has been approved);
  6. Material changes in the amount, nature, or extent of public amenity facilities in the approved FDD district standards; or
  7. Any proposed revision to the FDD zoning text.

## **ARTICLE IV. ZONING DISTRICTS**

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### **SECTION 5.3.465 Conformance with Development Regulations and Surety Requirements**

When approved FDD district standards provide for the dedication of land or improvements for rights-of-way, parks, or other public spaces and amenities; the division of property into two (2) or more lots; or the installation of other public improvement dedications or public amenity facilities, zoning permits for property within the flexible design district shall not be issued until a final plat, easements, or other surety has been approved in accordance with the standards of this Chapter and Town policies and procedures. Where the final plat is to be recorded prior to the installation of public improvement dedications or public amenity facilities, the Planning Commission shall require the posting of a surety instrument (bond, certified check, or other instrument readily convertible to cash) to guarantee the installation and/or dedication of public improvement dedications and public amenities facilities approved as part of the FDD district standards.

### **SECTION 5.3.466 Recording**

All plats and plans approved under the terms of this section shall be recorded in the Office of the Horry County Register of Deeds.

### **SECTIONS 5.3.467 through 5.3.499 Reserved**

## ARTICLE IV. ZONING DISTRICTS

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## ARTICLE IV. ZONING DISTRICTS

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# ARTICLE V. USE REGULATIONS

## DIVISION 1. USE CLASSIFICATION & DISTRICT USES

### SECTION 5.3.500 Classification of Uses

It is recognized that various types of land uses will develop and that different forms of land uses will seek to locate within the Town. In order to provide for this occurrence, a determination of the appropriate classification for all uses of land shall be made as follows:

1. All questions concerning the classification of uses shall be referred to the Administrator for an interpretation of this Chapter. The referral of the use classification question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, storage and the amount thereof, anticipated employment, types of products, transportation requirements, and any additional information deemed necessary by the Administrator to classify the proposed use.
2. The Administrator shall consider the nature and described performance of the proposed use and may assign a use classification descriptive of the use from Table 5.3.502 or assign a use classification as is otherwise specifically provided by this Chapter.
3. Appeals from the determinations of the Administrator are made to the Board of Zoning Appeals pursuant to Article III of this Chapter.
4. If the Administrator or the Board of Zoning Appeals, operating under parts 2 and 3 above, determines that a described use does not appear within this Chapter, the Administrator or the Board of Zoning Appeals shall transmit a copy of the determination to the Planning Commission and Town Council. The Planning Commission or Town Council may initiate a text amendment to classify the proposed use.
5. Any use which does not appear within this Chapter shall be determined to be a Use Not Allowed within the Town of Atlantic Beach.

### SECTION 5.3.501 Use Types

Within each zoning district, a use is either a Use Permitted by Right, a Conditional Use, a Special Exception Use, or a Use Not Allowed.

#### §5.3.501.1 P USES PERMITTED BY RIGHT

A “P” in the zoning district columns of Table 5.3.502 indicates that a use is permitted in the respective zoning district, subject to compliance with all other applicable regulations of this Chapter.

#### §5.3.501.2 C CONDITIONAL USES

A “C” in the zoning district columns of Table 5.3.502 indicates that a use is allowed in the respective zoning district only if it complies with use-specific conditions and all other applicable regulations of this Chapter. A cross-reference to the applicable use-specific conditions can be found in the “Special Standards” column of Table 5.3.502.

#### §5.3.501.3 S SPECIAL EXCEPTION USES

An “S” in the zoning district columns of Table 5.3.502 indicates that a use is allowed only if reviewed and approved by the Board of Zoning Appeals in accordance with the special exception procedures of this Chapter. In addition, special exception uses are subject to compliance with the

# ARTICLE V. USE REGULATIONS

use-specific conditions, if any, and all other applicable regulations of this Chapter. Where applicable, a cross-reference to the use-specific conditions can be found in the “Special Standards” column of Table 5.3.502.

§5.3.501.4  USES NOT ALLOWED

A blank cell in the zoning district columns of Table 5.3.502 indicates that a use is not allowed in the respective zoning district unless said use is otherwise expressly allowed by other provisions within this Chapter.

## SECTION 5.3.502 Use Table

Uses shall be allowed or are prohibited within the zoning districts of this Chapter in accordance with Table 5.3.502 “Schedule of Uses”.

Table 5.3.502 Schedule of Uses											
P = Permitted by Right		C = Conditional Use			S = Special Exception			Blank Cell = Use Not Allowed			
Use Classifications	Districts									Special Standards	Parking Code
	CP	R-2	MS1	MS1R	MS2	G	HWY	WF1	WF2		
<b>Residential Uses</b>											
Single-Family, Attached		C		C						§5.3.572	B
Single-family, Detached		P		P				S		§5.3.573	A
Manufactured Home											
Mobile Home											
Divisible Dwelling Unit				C						§5.3.528	B
Two-Family Dwelling (Duplex)		P		P							B
Multi-family Dwelling		P	P	P	C		C	S	S	§5.3.506 §5.3.507 §5.3.555 §5.3.570	B
Boarding House			S	S						§5.3.512	C
Congregate Residence			S	S	S		S			§5.3.507 §5.3.520	C
Family Housing Development		C								§5.3.534	A
Manufactured Housing Park											
Second and Upper Floor Residential			C	C	C		C	S	S	§5.3.506 §5.3.507 §5.3.570	B

# ARTICLE V. USE REGULATIONS

Table 5.3.502  
**Schedule of Uses**

P = Permitted by Right      C = Conditional Use      S = Special Exception      Blank Cell = Use Not Allowed											
Use Classifications	Districts									Special Standards	Parking Code
	CP	R-2	MS1	MS1R	MS2	G	HWY	WF1	WF2		
<b>Resort Accommodation Uses</b>											
Bed and Breakfast		S		C						§5.3.511	C
Central Reception or Check-In Facility			P	P	C		P	C	C	§5.3.506 §5.3.507 §5.3.516	E
Hotel and Motel			P	P	P		P	S	C	§5.3.506 §5.3.549	G
Inn			P	P	P		P	S	C	§5.3.506 §5.3.549	G
Interval Occupancy and Short-Term Rental Residential Dwelling Units			C	C	C			C	C	§5.3.506 §5.3.507 §5.3.550	A
RV Park											
<b>Public, Civic, and Institutional Uses</b>											
Assisted Living Facility				P		P	P				C
Convalescent Centers and Nursing Homes				P		P	P				Q
Cemetery						S				§5.3.513	M
Colleges and Universities			S	S			S			§5.3.517	N
Day Care		S	C	C		S				§5.3.524	T
Fraternal Organizations			C	C	C	P				§5.3.507 §5.3.535	H
Government Facilities (Office type)			C	C	C	P	P	S	S	§5.3.506 §5.3.507 §5.3.539	F
Government Facilities (Safety Services)			S	S	S	C	C	S	S	§5.3.506 §5.3.507 §5.3.539	J

# ARTICLE V. USE REGULATIONS

Table 5.3.502  
**Schedule of Uses**

P = Permitted by Right      C = Conditional Use      S = Special Exception      Blank Cell = Use Not Allowed											
Use Classifications	Districts									Special Standards	Parking Code
	CP	R-2	MS1	MS1R	MS2	G	HWY	WF1	WF2		
<b>Public, Civic, and Institutional Uses</b>											
Government Facilities (Other uses including courts of law, correctional institutions and jails, parole or probation offices)							S			§5.3.540	F
Group Care and Rehabilitation Facilities						S	S			§5.3.541	R
Hospitals/Clinics						P	P				R
Park, Community		C	C	C	C	C	C	C	S	§5.3.506 §5.3.507 §5.3.560	K
Park, Recreation Complex		S	S	S	S	S	S	S		§5.3.506 §5.3.507 §5.3.560	L
Park, Special Purpose		S	S	S	S	S	S	S		§5.3.506 §5.3.507 §5.3.560	K
Passenger Terminal			S	S		P	S			§5.3.561	E
Religious Institutions			C	C	C	P				§5.3.507 §5.3.565	H
Schools, Public or Private			S	S	S		S			§5.3.507 §5.3.569	N
Utilities (Major)						S				§5.3.583	S
Utilities (Minor)			S	S		S				§5.3.583	S
<b>Entertainment, Recreation, and Dining Uses</b>											
Community Theater			C	C	C	C	P	C	C	§5.3.506 §5.3.507 §5.3.519	I
Dance Studio			P	P	C		P			§5.3.507 §5.3.523	K

# ARTICLE V. USE REGULATIONS

Table 5.3.502  
**Schedule of Uses**

P = Permitted by Right      C = Conditional Use      S = Special Exception      Blank Cell = Use Not Allowed											
Use Classifications	Districts									Special Standards	Parking Code
	CP	R-2	MS1	MS1R	MS2	G	HWY	WF1	WF2		
<b>Entertainment, Recreation, and Dining Uses</b>											
Eating Establishments, Drive-Thru							C			§5.3.529	<b>D</b>
Eating Establishments, High Seating Turnover			C	C	C		C	S	C	§5.3.506 §5.3.507 §5.3.530	<b>D</b>
Eating Establishments, Low Seating Turnover			C	C	C		C	S	C	§5.3.506 §5.3.507 §5.3.530	<b>D</b>
Eating Establishments, Without Seating			S	S	S		S	S	S	§5.3.506 §5.3.507 §5.3.531	<b>D</b>
Entertainment, Indoor			P	S	C		P	S	S	§5.3.506 §5.3.507 §5.3.532	<b>K</b>
Entertainment, Outdoor			C	S	C	C		S	C	§5.3.506 §5.3.507 §5.3.533	<b>K</b>
Health Club, Spa, or Gym			P	P	C		P	C	C	§5.3.506 §5.3.507 §5.3.544	<b>K</b>
Nightclub or Bar					S		P		C	§5.3.506 §5.3.507 §5.3.558	<b>E</b>
Recreation, Indoor			C		C		C	S	S	§5.3.506 §5.3.507 §5.3.563	<b>K</b>
Recreation, Outdoor					S	C	S	S	S	§5.3.506 §5.3.507 §5.3.564	<b>K</b>
Sexually Oriented Business							C			§5.3.571	<b>E</b>
Water Parks							S		S	§5.3.506 §5.3.586	<b>K</b>

# ARTICLE V. USE REGULATIONS

Table 5.3.502

## Schedule of Uses

P = Permitted by Right      C = Conditional Use      S = Special Exception      Blank Cell = Use Not Allowed											
Use Classifications	Districts									Special Standards	Parking Code
	CP	R-2	MS1	MS1R	MS2	G	HWY	WF1	WF2		
<b>Commercial, Office, and Professional Uses</b>											
Automobile Rental			C	S			P			§5.3.508	E
Automobile Service Station and Repair Garage							C			§5.3.509	U
Automobile Sales							C			§5.3.510	E
Bank or Financial Institution			P	P	C		P	C	C	§5.3.506 §5.3.507	E
Bicycle Rental (with Outdoor Storage)					C			C	C	§5.3.506 §5.3.507	E
Car Wash							P				V
Commercial Parking Lots and Garages (Primary Use)					S		C		S	§5.3.506 §5.3.507 §5.3.518	
Contractor's Office							C			§5.3.521	F
Convenience Store			C	C			C			§5.3.522	> E/X
Department Store, Discount Store, and Gift Shop			C	C	C		P	C	C	§5.3.506 §5.3.507 §5.3.525	E
Funeral Home							P				P
Furniture Store							P				S
Gas and other Fuel Sales							C			§5.3.538	X
Hardware, Paint, Wallpaper, or Carpet Store							C			§5.3.543	S
Health Services excluding Hospitals			C	C		P	P			§5.3.545	O
Kennel, Boarding							S			§5.3.551	S
Landscape Nursery							P				E

# ARTICLE V. USE REGULATIONS

Table 5.3.502

## Schedule of Uses

P = Permitted by Right      C = Conditional Use      S = Special Exception      Blank Cell = Use Not Allowed												
Use Classifications	Districts									Special Standards	Parking Code	
	CP	R-2	MS1	MS1R	MS2	G	HWY	WF1	WF2			
<b>Commercial, Office, and Professional Uses</b>												
Laundry (Self Service) or Laundromat							P					F
Liquor Store							C			\$5.3.552		E
Office Uses			P	P	C		P			\$5.3.507		F
Real Estate Offices Sales/Rentals			C	C	C		P			\$5.3.507 \$5.3.562		F
Retail Sales or Services			C	C	C		C	C	C	\$5.3.506 \$5.3.507 \$5.3.525		E
Self-Service Storage												
Shopping Center			C/S	C/S	S		C/S			\$5.3.507 \$5.3.574		E
Souvenir or T-shirt Store			C	C	C		P	C	C	\$5.3.506 \$5.3.507 \$5.3.575		E
Supermarket			C				C			\$5.3.576		E
Taxicab Services							S			\$5.3.578		J
Towing Services							S			\$5.3.580		J
Truck or Trailer Rental							S			\$5.3.581		J
Veterinary Hospital							S			\$5.3.584		O
Watercraft Sales, Rental, or Service							C		S	\$5.3.585		J
<b>Industrial Uses</b>												
Aviation Services												
Fuel or Chemical Storage												
Junk or Salvage Yard												
Laundry (Onsite dry-cleaning)												
Light Industrial Services												
Light Manufacturing and Production												

# ARTICLE V. USE REGULATIONS

Table 5.3.502  
**Schedule of Uses**

P = Permitted by Right      C = Conditional Use      S = Special Exception      Blank Cell = Use Not Allowed											
Use Classifications	Districts									Special Standards	Parking Code
	CP	R-2	MS1	MS1R	MS2	G	HWY	WF1	WF2		
<b>Industrial Uses</b>											
Telecommunications Facility				S		S				§5.3.579	S
Warehouse and Freight Movement											
Waste Treatment Plant											
Water Oriented Facilities including marinas, docks, and piers											
Wholesale Sales							S			§5.3.587	S

### SECTION 5.3.503 Development with Multiple Principal Uses

When all principal uses of a development fall within one (1) use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore, and bakery, for example, would be classified in the Retail Sales or Service category because all of the development’s principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to all applicable regulations for that category. Developments with multiple principal uses, such as shopping centers, shall incorporate only those uses allowed in the underlying district.

### SECTION 5.3.504 Reserved

# ARTICLE V. USE REGULATIONS

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## DIVISION 2. SPECIFIC USE STANDARDS

### SECTION 5.3.505 Application of Standards

The standards of this division apply to conditional and special exception uses. Where a use is listed in Table 5.3.502 as permitted by right, the standards of this division shall not apply.

### SECTION 5.3.506 Standards Applicable to Certain Uses in the WF1 and WF2 Districts

In addition to all other applicable requirements of this Chapter, uses permitted within the WF1 and WF2 districts are subject to the following standards:

- A. The establishment of a new use or enlargement of an existing nonresidential use shall require the submission of a traffic impact study. The BZA or Administrator may require the implementation of traffic mitigation measures as a condition of permit approval;
- B. New development shall incorporate a mixture of uses as defined by Section 5.3.32. The first floor of such uses shall be devoted to permitted entertainment, recreation, and dining uses or commercial, office, or professional uses. Resort accommodation uses (excluding guest rooms) are permitted on the first floor provided that fifty (50) percent or more of the first floor's gross floor area is devoted to accessory or ancillary uses such as restaurants, retail shops, and similar uses;
- C. A beach and pedestrian access plan is required. The BZA or Administrator may require the implementation of access measures as a condition of permit approval; and
- D. Subsections A, B, and C of this section do not apply to temporary uses permitted pursuant to Division 4 of this Article or single-family detached uses in the WF1 District. This section does not apply to the reconstruction or enlargement of nonconforming uses, when reconstruction or enlargement is otherwise permitted by Article IX.

### SECTION 5.3.507 Standards Applicable to Certain Uses in the MS2 District

In addition to all other applicable requirements of this Chapter, uses permitted within the MS2 District are subject to the following standards:

- A. Surface parking may be developed to the rear or side of the primary building. Parking in a required front yard or in front of the primary building is prohibited, except 1. on a corner lot having frontage on 2<sup>nd</sup> Avenue. In this instance, parking may be permitted in the yard adjacent to 2<sup>nd</sup> Avenue; and 2. the Board of Zoning Appeals may permit parking in a required front yard as a special exception subject to the requirements of Article III;
- B. Uses that require new curb cuts or access points onto 30<sup>th</sup> or 31<sup>st</sup> avenues or uses that have the potential to generate 200 or more peak hour trips as determined by the Institute of Transportation Engineer's Trip Generation Manual (latest edition) shall require the submission of a traffic impact study as provided in sections 5.3.325 and 5.3.332 . The BZA or Administrator may require the implementation of traffic mitigation measures as a condition of permit approval;
- C. Development on lots greater than 10,000 square feet shall incorporate a mixture of uses as defined by Article II; and
- D. Subsections A, B, and C of this section do not apply to temporary uses permitted pursuant to Division 4 of this Article.

## **ARTICLE V. USE REGULATIONS**

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### **SECTION 5.3.508 Automobile Rental**

Automobile rental uses are subject to the following standards:

- A. The automobile rental use shall be co-located with or be contiguous to a resort accommodation use; and
- B. No more than ten (10) vehicles shall be stored on the site at any one (1) time.

### **SECTION 5.3.509 Automobile Service Station and Repair Garage**

Automobile service stations and repair garages are subject to the following standards:

- A. All vehicles stored overnight in open view of public streets and/or adjoining properties shall be currently licensed and in operable condition. No more than five (5) vehicles shall be stored in open view overnight at any time;
- B. All wrecked, unlicensed, or disabled vehicles awaiting repair shall be stored in an enclosed building;
- C. The repairing or replacing of motors will be allowed only in a enclosed building; and
- D. An automobile service station offering gas and fuel sales is permitted in the HWY District only. Gas and fuel sales also are subject to the requirements of Section 5.3.538.

### **SECTION 5.3.510 Automobile Sales (Reserved)**

### **SECTION 5.3.511 Bed and Breakfast**

Bed and breakfast facilities are subject to the following standards:

- A. Unless otherwise expressly permitted by this Chapter, ancillary uses and activities shall be prohibited in conjunction with a bed and breakfast, including luncheons, banquets, parties, weddings, or other gatherings; and
- B. Food service is allowed provided it is only offered to registered overnight guests.

### **SECTION 5.3.512 Boarding House (Reserved)**

### **SECTION 5.3.513 Cemetery**

Cemetery uses are permitted provided that all gravesites are setback no less than twenty (20) feet from an adjoining property line and the entire site is screened with a fence or other plantings in accordance with Section 5.3.650.

### **SECTION 5.3.514 through 5.3.515 Reserved**

### **SECTION 5.3.516 Central Reception or Check-In Facility**

Central reception or check-in facilities are permitted provided that it serves contiguous development.

### **SECTION 5.3.517 Colleges and Universities**

Colleges and universities are subject to the following standards:

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- A. The site shall contain no less than one (1) acre of contiguous area; and
- B. A traffic impact study is required. The BZA may require the implementation of traffic mitigation measures as a condition of permit approval.

### **SECTION 5.3.518 Commercial Parking Lots and Garages (Primary Use)**

Commercial parking lots and garages are subject to the following standards:

- A. Commercial parking lots and garages shall require the submission of a traffic impact study as provided in sections 5.3.325 and 5.3.332. The BZA or Administrator may require the implementation of traffic mitigation measures as a condition of permit approval; and
- B. Parking lots and garages shall be setback no less than ten (10) feet from any adjoining rear or side property line. Screening and buffering shall be provided in accordance with Section 5.3.650.

### **SECTION 5.3.519 Community Theater**

Community theater productions and other related theatrical/repertory companies are permitted provided that the use is not located within 500 feet of any existing use classified as "Hazardous Occupancy, Group H," as defined by the latest edition of the adopted building code.

### **SECTION 5.3.520 Congregate Residence**

Congregate residences are subject to the following standards:

- A. The site shall have direct access to a major or minor arterial, as defined in Section 5.3.32;
- B. The site shall be a minimum of 15,000 square feet in size; and
- C. The congregate residence shall be located on the same site as the associated religious institution or educational facility.

### **SECTION 5.3.521 Contractor's Office**

Contractor's offices shall have no onsite storage of building materials.

### **SECTION 5.3.522 Convenience Store**

Convenience stores are subject to the following standards:

- A. The site shall have direct access to a minor arterial only, as defined in Section 5.3.32;
- B. No more than two (2) convenience stores shall be located at the intersection of a major arterial with a minor arterial. The two (2) permitted stores shall be located on opposite sides of the major arterial;
- C. Gross floor area of a convenience store shall not exceed 3,500 square feet; and
- D. A convenience store offering gas and fuel sales is permitted in the HWY District only. Gas and fuel sales are also subject to the requirements of Section 5.3.538.

### **SECTION 5.3.523 Dance Studio (Reserved)**

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### **SECTION 5.3.524 Day Care**

Day care facilities are subject to the following standards:

- A. Day care facilities shall comply with all applicable state regulations; and
- B. Outdoor play areas shall be fenced in accordance with Section 5.3.621. No outdoor play area shall be located in any required front yard or located closer than seventy (70) feet to a public or private street.

### **SECTION 5.3.525 Department and Discount Store, Gift Shop, and Retail Sales and Services**

Department and discount stores, gift shops, and retail sales and services are subject to the following standards:

- A. Stores located within the MS1 and MS1R districts shall not exceed a maximum gross floor area of 20,000 square feet;
- B. Stores located in a shopping center in the HWY District shall not exceed a maximum gross floor area of 75,000 square feet; and
- C. The site shall have direct access to a major or minor arterial street.

### **SECTION 5.3.526 through 5.3.527 Reserved**

### **SECTION 5.3.528 Divisible Dwelling Unit**

Divisible dwelling units incorporating lock-out rooms are subject to the following standards:

- A. The unit shall not have a separate outside entrance serving the lock-out rooms; and
- B. The lock-out rooms shall not exceed seventy-five (75) percent of the gross floor area for the entire dwelling.

### **SECTION 5.3.529 Eating Establishments with Drive-Thru Window**

Eating establishments with a drive-thru window require the submission of a traffic impact study in accordance with sections 5.3.325 and 5.3.332. The BZA or Administrator may require the implementation of traffic mitigation measures as a condition of permit approval.

### **SECTION 5.3.530 Eating Establishments with Seating (High and Low Turnover)**

Eating establishments with seating are subject to the following standards:

- A. Outdoor dining is prohibited in the MS1R District. In the MS1, MS2, HWY, WF1 and WF2, outdoor dining may be permitted as a special exception; and
- B. Where outdoor dining is permitted, areas designated for outdoor tables and seating shall be setback no less than ten (10) feet from a rear or side property line.

### **SECTION 5.3.531 Eating Establishments without Seating (Reserved)**

### **SECTION 5.3.532 Entertainment, Indoor (Reserved)**

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### **SECTION 5.3.533 Entertainment, Outdoor (Reserved)**

### **SECTION 5.3.534 Family Housing Development**

Family housing developments are permitted provided that the number of dwelling units does not exceed the density requirements of the R-2 District and the subject lot has not less than twenty-five (25) feet of frontage on a public street per dwelling unit.

### **SECTION 5.3.535 Fraternal Organizations (Reserved)**

### **SECTION 5.3.536 through 5.3.537 Reserved**

### **SECTION 5.3.538 Gas and Other Fuel Sales**

Gas and other fuel sales are subject to the following standards:

- A. The site shall have direct access to a minor arterial only, as defined in Section 5.3.32. No direct access to a major arterial shall be permitted;
- B. No more than two (2) facilities offering gas and fuel sales shall be located at the intersection of a major arterial with a minor arterial. The two (2) permitted facilities shall be located on opposite sides of the major arterial;
- C. No more than eight (8) pumps (defined as a fueling area for an individual vehicle) shall be permitted;
- D. No signs shall be located on any canopy over the pumps; and
- E. All canopy lighting shall meet the requirements of Section 5.3.642.

### **SECTION 5.3.539 Government Facilities (Office and Safety Services)(Reserved)**

### **SECTION 5.3.540 Government Facilities (Other Uses)**

All buildings containing government facilities (other uses) shall be located no less than one-hundred (100) feet from an R2 district.

### **SECTION 5.3.541 Group Care and Rehabilitation Facilities**

Group care and rehabilitation facilities are subject to the following standards:

- A. The facility must be licensed by the State of South Carolina with proof of licensure or licensure pending zoning approval; and
- B. The use is subject to the density standards of the HWY District. For the purposes of determining density, each bedroom shall be considered one (1) unit in applying the standards of Section 5.3.420.

### **SECTION 5.3.542 Reserved**

### **SECTION 5.3.543 Hardware, Paint, Glass, Wallpaper, or Carpet Store**

A hardware, paint, glass, wallpaper, or carpet store is subject to the following standards:

- A. The gross floor area of the store shall not exceed 5,000 square feet; and

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- B. No storage outside of an enclosed building shall be permitted.

### SECTION 5.3.544 Health Club, Spa, or Gym

A health club, spa, or gym is subject to the following standards:

- A. The gross floor area of the facility shall not exceed 10,000 square feet; and
- B. The site shall have direct access to a major or minor arterial, as defined in Section 5.3.32.

### SECTION 5.3.545 Health Services excluding Hospitals (Reserved)

### SECTION 5.3.546 through 5.3.547 Reserved

### SECTION 5.3.548 Hospitals and Clinics (Reserved)

### SECTION 5.3.549 Hotel, Motel, and Inn

Hotels, motels, and inns are subject to the following standards:

- A. The site shall have direct access to a major or minor arterial; and
- B. In the WF1 and WF2 districts, the site shall meet all of the following requirements:
  - 1. Adequate commercial services are available within walking distance;
  - 2. Circulation is adequate within the district; and
  - 3. Direct access to the beach by a pedestrian walkway is provided.

### SECTION 5.3.550 Interval Occupancy and Short-Term Rental Residential Dwelling Units

Interval occupancy and short-term rental residential dwelling units are subject to the following standards:

- A. No single-family residence on an individual lot, and no two-family dwelling (duplex), may be converted to a vacation time-sharing plan use as defined by this Chapter or pursuant to Chapter 32 of Title 27 of the South Carolina Code of Laws, as amended, if the residence or duplex is located on an individual lot and conveyed subject to land use covenants restricting the use of the property to single-family or duplex residences, and such original covenants do not expressly authorize timeshare or interval ownership in the initial recorded covenants;
- B. No apartment, townhouse, or villa forming a part of a horizontal property regime (condominium) under South Carolina law now in “whole unit” ownership may be converted to a vacation timesharing plan use as defined by this Chapter or pursuant to Chapter 32 of Title 27 of the South Carolina Code of Laws, as amended, unless the covenant or regime master deed documents explicitly authorize subdivision into timeshare or interval forms of ownership, or as otherwise authorized by amendment to the master deed;
- C. No unit which is subdivided by timesharing or other forms of interval occupancy may be sold or subjected to use or occupancy for more than fifty-one (51) weeks per year. The remaining week of time shall be reserved by all of the owners of said unit for maintenance and repair. This subsection shall apply to any applicable new unit created after the effective date of this Chapter. This provision shall not apply to quarter-sharing or other applicable programs as defined by state law, provided that adequate maintenance provisions are included in the covenant;

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- D. No existing multi-family, hotel, motel, or inn use which exceeds the permitted by right density for that district in which it is located and which is deemed a nonconforming use based on the existing density shall be converted or permitted to be converted to interval occupancy or short-term rental use; and
- E. The conversion of a single-family, two-family, or multi-family dwelling to interval occupancy or short term rental shall not occur in any district in which a single-family, two-family, or multi-family dwelling is a use not allowed pursuant to Table 5.3.502.

### **SECTION 5.3.551 Kennel, Boarding**

Kennels are permitted provided all runs and other areas where animals are to be kept shall be located within the building. The building shall be suitably insulated to prevent noise from reaching neighboring properties.

### **SECTION 5.3.552 Liquor Stores**

Liquor stores are subject to the following standards:

- A. A liquor store shall not be located less than 200 feet from the nearest property line of any existing religious institution, public or private school, or R2 district;
- B. A liquor store shall not be located within 500 feet of an existing liquor store, nightclub or bar; and
- C. The required distances, of A and B above, shall be measured from the nearest property line of the affected use to the nearest property line of the proposed liquor store or any parking lot designated to be used by patrons of the store.

### **SECTION 5.3.553 Manufactured Housing Park (Reserved)**

### **SECTION 5.3.554 Marina**

Marinas are subject to the following standards:

- A. All required state and federal permits are issued by the appropriate agencies;
- B. No net loss of protected dunes and/or other unique wildlife habitat shall be permitted. Dry-stack storage, and inland facilities are preferred;
- C. Fueling facilities (including underground storage, pipelines, and pumps) shall be permitted only at commercial marinas, not at communal or individual docks; and
- D. Commercial marinas with fueling facilities shall ensure that no fuel is kept on non-commercial piers or docks (fuel must be kept in appropriate containers ashore or aboard).

### **SECTION 5.3.555 Multi-Family Dwelling**

Multi-family dwellings are permitted in the MS1, MS2, HWY, WF1, and WF2 districts as second floor or upper story residences. Multi-family shall also be permitted as standalone use in the MS1 district. Multi-family dwellings shall also be permitted on the first floor of mixed-use structures in the MS1 district, provided the dwellings have their primary access from the side or rear of the building. Multi-family dwellings in these districts are also subject to the requirements of Section 5.3.570.

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### **SECTIONS 5.3.556 through 5.3.557 (Reserved)**

### **SECTION 5.3.558 Nightclub or Bar**

Nightclubs and bars are subject to the following standards:

- A. Nightclubs and bars shall not be located within 200 feet from the nearest property line of any existing religious institution, public or private school, or R2 district;
- B. Except in WF2 District, nightclubs and bars shall not be located within 500 feet of an existing nightclub or bar; and
- C. The required distances, of A and B above, shall be measured from the nearest property line of the affected use to the nearest property line of the proposed nightclub or bar or any parking lot designated to be used by patrons of the nightclub or bar.

### **SECTION 5.3.559 Office (Reserved)**

### **SECTION 5.3.560 Parks**

Publicly owned or noncommercial parks and recreational uses are subject to the following standards:

- A. Any building or structure associated with the use (excluding fencing) shall be located no closer than fifteen (15) feet from a rear or side property line; and
- B. The use of outdoor lighting for recreational areas including ball fields, tennis courts, basketball courts, skate parks, and similar improvements shall require the submission of a lighting plan.

### **SECTION 5.3.561 Passenger Terminal**

Passenger terminals are permitted provided that no part of the building(s) or loading area(s) is located within one-hundred (100) feet of the R2 District.

### **SECTION 5.3.562 Real Estate Offices, Sales/Rental (Reserved)**

### **SECTION 5.3.563 Recreation, Indoor (Reserved)**

### **SECTION 5.3.564 Recreation, Outdoor**

Outdoor recreational uses are subject to the following standards:

- A. Any building or structure associated with the use (excluding fencing) shall be located no closer than fifteen (15) feet from a rear or side property line; and
- B. The use of outdoor lighting for recreational areas shall require the submission of a lighting plan.

### **SECTION 5.3.565 Religious Institutions (Reserved)**

### **SECTION 5.3.566 through 5.3.568 Reserved**

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### SECTION 5.3.569 Schools, Public or Private

Schools are subject to the following standards:

- A. The site shall contain no less than one (1) acre of contiguous area; and
- B. A traffic impact study is required. The BZA may require the implementation of traffic mitigation measures as a condition of permit approval.

### SECTION 5.3.570 Second and Upper Floor Residential

Second and upper floor residential uses are subject to the following standards:

- A. Secondary and upper story residential uses are subject to the density requirements provided in Section 5.3.420; and
- B. Separate designated parking spaces for use by the residential units are required. Shared parking calculations shall not be permitted.

### SECTION 5.3.571 Sexually Oriented Business

- A. **Purpose and Intent.** The purpose of this division is to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the residents of Atlantic Beach, and to establish reasonable and uniform regulations to prevent or reduce to any extent the secondary effects of sexually oriented businesses in the town. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials or expression. Similarly, it is neither the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials or expression protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this division to condone or legitimize the distribution or exhibition of obscenity.
- B. **Findings of Fact.** Sexually oriented businesses generate secondary effects that are detrimental to the public health, safety, and welfare. Such detriments have been documented in numerous studies including but not limited to: Phoenix, Arizona (1979); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin Texas (1986); Seattle, Washington (1989); Oklahoma City, Oklahoma (1986); El Paso, Texas (1986); New York City, New York (1994); Dallas, Texas (1997); Newport News, Virginia (1996); New York Times Square Study (1994); Phoenix, Arizona (1995-1998); Greensboro, North Carolina (2003); Toledo, Ohio (2002); and Centralia, Washington (2004).

Sexually oriented businesses, as a category of commercial use, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, public safety risks, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, illicit drug use and drug trafficking, negative impacts on surrounding properties, litter, and sexual assault and exploitation.

The location of sexually oriented businesses close to residential areas diminishes property values and leads to conditions that give rise to crime in residential neighborhoods. Studies performed in other communities, including the aforementioned, indicated conclusively that property crimes and sexual crimes increase significantly in neighborhoods where sexually oriented businesses are located.

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Each of the foregoing negative secondary effects constitutes a harm which the Town has a substantial governmental interest in preventing and/or abating in the future. The regulations contained in this division are designed to ensure that operators of sexually oriented businesses comply with reasonable regulations and to facilitate the enforcement of legitimate location and distance requirements.

C. **Location Restrictions.** Sexually oriented businesses shall be subject to the following location restrictions:

1. A sexually oriented business shall not be operated within 750 feet of:
  - a. A religious institution;
  - b. A public park or government facility;
  - c. The property line of a lot devoted to residential use; or
  - d. A daycare center or a public or private school;
2. No sexually oriented business shall be operated, established, substantially enlarged or transferred in ownership or control if within 750 feet of another sexually oriented business;
3. No sexually oriented business located in the same building, structure, or portion thereof, with another sexually oriented business shall increase the floor area size of the business;
4. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, and from the nearest portion of the building or structure used as a part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of a religious institution, public park or government facility, daycare educational center or public or private school, or to the nearest boundary of a residential lot; and
5. For purposes of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

D. **Nonconforming Use Based on Location Restrictions.** Any sexually oriented business operating on the effective date of this Chapter, which thereafter continuously lawfully operated, and which does not meet the requirements of this Chapter shall be deemed a nonconforming use and subject to the provisions of Article IX of this Chapter. If two (2) or more sexually oriented businesses are within 750 feet of one another and otherwise in a permissible location, both the sexually oriented business use that was first established and continually operating at a particular location and the later established use are nonconforming, and the provisions of Article IX shall apply.

E. **Business with Viewing Room.** A person who operates or causes to be operated a sexually oriented business, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall, in addition to all other provisions of this Chapter, comply with the following requirements:

1. Upon application for a sexually oriented business permit and/or license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will be permitted;

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2. A manager's station may not exceed thirty-two (32) square feet of floor area;
3. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted;
4. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches;
5. The Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared;
6. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Administrator in conformance with this Chapter;
7. It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises;
8. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms;
9. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations;
10. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present that the viewing area remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted;
11. No patron viewing room may be occupied by more than one (1) person at any time;
12. The premises shall be equipped with overhead lighting fixtures with illumination of not less than one (1) foot-candle as measured at the floor level;
13. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises; and
14. A person having a duty under these subsections commits a misdemeanor if he or she knowingly fails to fulfill that duty.

### F. Exemptions.

1. Any sexually oriented business use lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a religious institution, public park or government facility, daycare educational center or public or private school, or residential lot.

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This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

2. Any sexually oriented business use lawfully operating on the effective date of the enactment of this Chapter, that does not meet the requirements of subsection C of this section shall be deemed a nonconforming use. Such nonconforming uses shall be subject to all other provisions of Article IX of this Chapter.
3. Exempted from the provision of this Chapter and prosecution in accordance with the provisions of this Chapter are persons in a state of nudity or semi-nudity appearing in a modeling class operated:
  - a. By a proprietary school licensed by the State of South Carolina; a college, junior college, or university supported entirely or partly by taxation; or
  - b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation, or any other school defined and regulated by Chapter 59 of the Code of Laws of South Carolina, 1976 as amended; or
  - c. By a non-profit organization such as a museum, gallery, artist association, or arts cooperative offered as part of an art demonstration or class; and
  - d. In a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and where no more than one (1) nude model is on the premises at any one (1) time.

### **SECTION 5.3.572 Single-Family, Attached**

Attached single-family dwellings are subject to the following standards:

- A. Special Setback Standards: Notwithstanding the setback requirements imposed by Article IV, attached single-family dwellings shall observe the following minimum side yard setbacks:
  1. Interior side yard setback. The attached dwelling unit shall be placed on the interior side property line with a zero (0) foot setback, and the setback applicable to the dwelling on the other interior side property line shall be zero (0) feet (where attached to another unit). From the exterior detached wall face, the setback along the side yard shall be ten (10) feet;
  2. Rear yard setback. The dwelling unit exterior wall shall observe the minimum rear yard setback of the district; and
  3. Side street setback. The dwelling structure shall be placed a minimum of fifteen (15) feet from any side yard property line that abuts a street.
- B. Lot Area Standards: The minimum lot area for attached dwellings shall comply with the standards contained in Table 5.3.420; and
- C. Lot Frontage and Lot Width Requirements: The minimum lot frontage and lot width required for attached dwellings shall comply with the provisions of sections 5.3.420 and 5.3.1023.

### **SECTION 5.3.573 Single-Family, Detached (Reserved)**

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### **SECTION 5.3.574 Shopping Center**

Shopping centers are permitted subject to the following standards:

- A. All shopping centers shall have direct access to a major or minor arterial street;
- B. Individual stores or units within the shopping center must contain only uses permitted by right or as conditional uses within the district. Uses subject to a special exception within the zoning district require individual approval by the Board of Zoning Appeals prior to locating within a pending or approved shopping center development;
- C. In the MS1 and MS1R districts, shopping centers not exceeding 15,000 square feet of gross floor area shall be permitted subject to conditional use review. Centers greater than 15,000 square feet but not exceeding 20,000 square feet of gross floor area shall be permitted subject to special exception review. In the MS1 and MS1R districts, shopping centers shall not exceed a gross floor area of 20,000 square feet;
- D. In the HWY District, shopping centers not exceeding 50,000 square feet of gross floor area shall be permitted subject to conditional use review. Centers greater than 50,000 square feet but not exceeding 75,000 square feet in gross floor area shall be permitted subject to special exception review. In the HWY District, shopping centers shall not exceed a gross floor area of 75,000 square feet; and
- E. In the MS2 District, shopping centers not exceeding 50,000 square feet of gross floor area shall be permitted subject to special exception review. In the MS2 District, shopping centers shall not exceed a gross floor area of 50,000 square feet.

### **SECTION 5.3.575 Souvenir or T-Shirt Store**

Souvenir and T-shirt stores are subject to the following standards:

- A. The gross floor area of the store shall not exceed 7,500 square feet; and
- B. Stores shall be located either:
  1. In an existing shopping center; or
  2. If freestanding, no closer than 1,000 feet from another souvenir or T-shirt store.

### **SECTION 5.3.576 Supermarket**

Supermarkets are permitted subject to the following standards.

- A. Supermarkets located within the MS1 District shall not exceed a maximum gross floor area of 20,000 square feet;
- B. Supermarkets located in a shopping center in the HWY District shall not exceed a maximum gross floor area of 75,000 square feet; and
- C. The site shall have direct access to a major arterial street.

### **SECTION 5.3.577 Reserved**

### **SECTION 5.3.578 Taxicab Services (Reserved)**

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## SECTION 5.3.579 Telecommunications Facility

Telecommunications facilities are subject to the following standards:

- A. The proposed tower, antenna or accessory structure, and equipment shall be placed in a location and in a manner which will minimize the visual impact on the surrounding area. Accessory structures and equipment must meet all applicable standards of this Chapter;
- B. Approval for a proposed tower within a radius of 10,500 feet from an existing tower or other suitable structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet the applicant's structural specifications or technical design requirements, or that a co-location agreement could not be obtained at a reasonable market rate and in a timely manner;
- C. A tower must be set back from all lot lines a distance equal to the tower's fall zone, as certified by a registered engineer, plus twenty (20) feet;
- D. A tower must be setback from all publicly owned rights-of-way a distance equal to the tower height divided by 0.35. This provision does not apply to towers located on Town-owned property, where upon determination by the Administrator, the tower location is necessary to provide for public safety communications equipment utilized by fire and rescue or law enforcement personnel;
- E. A tower must be setback a distance equal to the tower's height plus fifty (50) feet from any residential structure;
- F. The proposed tower must be designed to accommodate additional antennae equal in number to the applicant's present and future requirements. All communication towers shall be a monopole tower unless a different design is otherwise required to facilitate the co-location of other service providers or upon determination by the Administrator that an alternate tower design is necessary to provide for public safety communications equipment utilized by fire and rescue or law enforcement personnel;
- G. The height of a tower is limited to 160 feet as measured from existing grade at its base to the highest point of the tower or antenna;
- H. A tower must not be illuminated or contain any lighting unless otherwise required by state or federal regulations;
- I. The color of a tower and its antennae shall be one which will blend to the greatest extent possible with the natural surroundings;
- J. No signage shall be allowed on any tower, antennae, accessory structure, or equipment except as may be required by applicable safety codes;
- K. Existing towers may be replaced or modified providing that the existing height is not exceeded by more than twenty (20) feet and the new or modified tower meets all of the above requirements except for the setback provisions; and
- L. Any tower, antennae, accessory structure, or equipment that is not used for communication purposes for more than 120 days shall be considered abandoned and shall be removed by the owner within sixty (60) days.

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### **SECTION 5.3.580 Towing Services**

Towing service uses are subject to the following standards:

- A. All vehicles stored overnight in open view of public streets and/or adjoining properties shall be currently licensed and in operable condition. No more than five (5) vehicles stored in open view overnight shall be permitted; and
- B. All wrecked, unlicensed, or disabled vehicles awaiting repair or transport shall be stored in an enclosed building.

### **SECTION 5.3.581 Truck or Trailer Rental**

Truck or trailer rental is subject to the following standards:

- A. The site shall have direct access to a major or minor arterial street;
- B. The site shall be a minimum of one (1) acre in size in the HWY District; and
- C. Any storage areas shall be screened from view from any street or adjacent property in accordance with Section 5.3.650.

### **SECTION 5.3.582 Reserved**

### **SECTION 5.3.583 Utilities (Reserved)**

### **SECTION 5.3.584 Veterinary Hospital**

Veterinary hospitals are subject to the following standards:

- A. All kennels and runs and other areas where animals are to be kept must be located within a building suitably insulated to prevent noise from reaching neighboring properties; and
- B. There shall be no objectionable odors generated by the use detectable from neighboring properties.

### **SECTION 5.3.585 Watercraft Sales, Rental, or Service**

Watercraft sales, rental, or service uses are permitted subject to the following standards:

- A. The outdoor display of watercraft for sale or rental is limited to a designated area of no more than 5,000 square feet. The display area must be located on the same lot as the sales or rental office;
- B. All outdoor display must be setback from a street right-of-way by no less than twenty (20) feet; and
- C. Watercraft that is being serviced, repaired, or stored onsite must be located in an enclosed building. The outdoor storage of watercraft, not intended for immediate sale or rental, is prohibited.

### **SECTION 5.3.586 Water Parks (Reserved)**

### **SECTION 5.3.587 Wholesale Business with Accessory Retail Outlet**

Accessory retail outlets associated with a wholesale business are permitted provided no more than fifteen (15) percent of the gross floor area of the building shall be devoted to the accessory retail outlet.

# ARTICLE V. USE REGULATIONS

## DIVISION 3. ACCESSORY USES

### SECTION 5.3.588 Accessory Uses in General

Accessory uses are allowed by right in conjunction with principal uses unless otherwise provided by this Chapter. Also, unless otherwise provided, accessory uses are subject to the same regulations as the principal use.

### SECTION 5.3.589 Home Occupation

A home occupation as defined by this Chapter shall be deemed an accessory use. Home occupations are subject to the following standards:

- A. Is conducted entirely within a dwelling or integral part thereof and has no outdoor storage of any kind related to the home occupation, or in the case where the activities take place away from the dwelling, such activities are in full compliance with the provisions of this Chapter;
- B. Is clearly incidental and secondary to the principle residential use of the dwelling;
- C. Is conducted only by persons residing on the premises (nonresident employees are not permitted);
- D. Does not necessitate or cause the exterior appearance of any structure to be other than residential and is not disruptive of the residential character of the neighborhood;
- E. Has no advertising of the home occupation on the site or structures except for one (1) facade or window sign, not exceeding four (4) square feet, subject to the district's sign regulations provided in Article VII;
- F. Creates no disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, unhealthy or unsightly condition, or traffic or parking problem; and
- G. Does not involve retail sales or services that bring more than ten (10) customers per day to the dwelling.

### SECTION 5.3.590 Reserved

## DIVISION 4. TEMPORARY USES

### SECTION 5.3.591 General Requirements

The Administrator may permit temporary uses of a limited duration and intensity subject to the provisions of this Division. The following general requirements shall apply to all temporary uses:

- A. Permanent changes to the site are prohibited, including tree removal;
- B. Temporary pervious parking areas are required if sufficient parking is not existing at the site;
- C. Temporary activities shall not cause the elimination of required off-street parking; and
- D. These regulations do not exempt any operator from any other required permits.

## ARTICLE V. USE REGULATIONS

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### SECTION 5.3.592 Construction/Storage Trailers/Portable Storage Units

- A. A contractor's construction/storage trailer/portable storage unit may be approved by the Administrator in conjunction with any approved development project for which a building permit has been issued. The trailer must be located on the same site as the permitted project, and must be removed within one (1) month of issuance of a final certificate of occupancy for the project.
- B. The Administrator may authorize the placement of a portable storage units subject to the following standards:
  - 1. No more than one (1) portable storage unit may be placed on a lot and any one (1) time;
  - 2. The portable storage unit shall not be located closer than fifteen (15) feet from a street-right-of-way and shall be setback a minimum of five (5) feet from any rear or side lot line;
  - 3. The portable storage unit shall not exceed twenty-four (24) feet in length, eight (8) feet in width, or nine (9) feet in height;
  - 4. Units must be for storage only and shall not have plumbing or electrical service; and
  - 5. The placement of a portable storage unit requires a zoning permit. A portable storage unit may not be placed on a lot for more than thirty (30) consecutive days nor more than forty-five (45) cumulative days in any calendar year.

### SECTION 5.3.593 Fairs, Carnivals, and Public Gatherings

Fairs, carnivals, and other major public gatherings are allowed for an adjacent public, civic, or institutional use. Such activities are limited in duration to no more than five (5) consecutive days and no more than twenty (20) days in any calendar year.

### SECTION 5.3.594 Open Air Sales

Open air sales, including seasonal sales of items such as Christmas trees and pumpkins, and seasonal seafood or produce sales, are permitted in the HWY district provided that the sales activity does not last longer than thirty (30) consecutive days and all other applicable codes, including sanitation and electrical codes, are met. The Administrator may authorize up to three (3) permits, not to cumulatively exceed ninety (90) days per lot in a calendar year.

### SECTION 5.3.595 Residential Yard Sales

Residential yard sales are permitted on any lot containing a residential structure. The administrator may authorize up to four (4) permits, not to cumulatively exceed twelve (12) days per lot, in a calendar year.

### SECTION 5.3.596 Parking Lot/Sidewalk Sales

Parking lot/sidewalk retail sales are allowed up to three (3) consecutive days, provided that no required off-street parking is eliminated and safe pedestrian flow is provided. No more than two (2) such events are allowed per calendar year.

### SECTION 5.3.597 Temporary Sales/Leasing Offices

A temporary sales or leasing office, not to exceed 365 days in duration, is permitted provided that it is located in a model unit for residential projects or on-site for commercial projects.

## **ARTICLE V. USE REGULATIONS**

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### **SECTION 5.3.598 Events of Special Public Interest**

The Town Council may, by resolution, designate events of special public interest. The Town Council may establish, or authorize the Administrator to establish, the requirements and location restrictions for vendors, open air sales, parking lot/sidewalks sales, outdoor entertainment, and other event related activities.

### **SECTION 5.3.599 Reserved**

## ARTICLE V. USE REGULATIONS

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## ARTICLE V. USE REGULATIONS

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# ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

## DIVISION 1. GENERAL STANDARDS

### SECTION 5.3.600 Obstruction of Vision at Street Intersections

On a corner lot in all districts, no fence, wall, shrubbery, structure, or other obstruction to vision between the height of three (3) feet and ten (10) feet above the street grade shall be permitted inside the triangle formed by the intersecting streets within twenty (20) feet of the intersections of the right-of-way of streets.

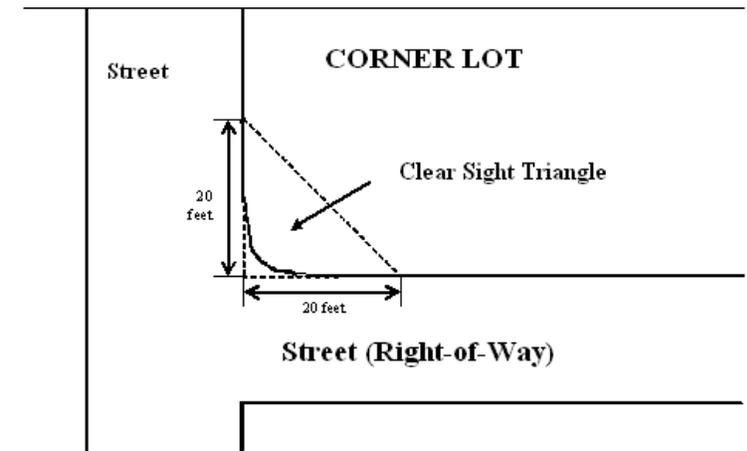


Illustration of Sight Triangle

### SECTION 5.3.601 Reduction of Lot size

No lot shall be reduced in area, yards, lot area per dwelling unit, lot width, building area, or other provisions except in conformity with this Chapter. This section does not apply when a portion of a lot is acquired for a public purpose.

### SECTION 5.3.602 Lot Access to Street

No zoning permit shall be issued for, and no building shall be erected, on any lot within the Town unless the street giving access to the lot upon which the building is proposed to be placed shall have been accepted or opened as a public street prior to that time, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Planning Commission and such approval is entered in writing on the plat by the Administrator.

### SECTION 5.3.603 Essential Services

- A. No development shall be undertaken unless appropriate documentation has been provided that the following basic services are available, as applicable:
  1. Water supply of acceptable quality and quantity to satisfy demand for potable water and firefighting service (including the provision of fire hydrants);
  2. Access and service by public sanitary sewer;
  3. Electric power supply;
  4. Telephone service; and
  5. Gas.

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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- B. The non-availability of essential services, including but not limited to, water supply, sanitary sewer, and electric power shall be grounds for denying permits for additional development until such services are available. The Town of Atlantic Beach or its duly authorized franchises are not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be by and at the cost of the developer, unless the Town agrees otherwise. All service extensions shall be designed and installed in full conformance with the Town or its franchises' standards for service, and shall be subject to review, permit, and inspection as required by other policies or ordinances of the Town.
- C. Essential services are also subject to the requirements of Article X.

### SECTION 5.3.604 Open Space

All open space required by this Chapter shall be landscaped. Landscaping shall consist of, but not be limited to, any combination of materials such as grass, ground covers, shrubs, flower beds, vines, hedges, and trees.

### SECTION 5.3.605 Parking and Storage of Certain Vehicles

Except for permitted automobile sales and rental uses, automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any district other than in a completely enclosed building.

### SECTION 5.3.606 Outdoor Display and Storage

- A. **Prohibition.** In all districts, outdoor display and outdoor storage, as defined by this Chapter, are prohibited except in conformance with this section.
- B. **Permanent and Routine Outdoor Displays.** Except as otherwise noted, in the MS1, MS2, G, HWY, WF1, and WF2 Districts the following outdoor displays are permitted, without restriction on the duration or frequency of display, provided such goods are offered for sale as part of the business of the occupant of the building at which the outdoor displays are taking place and provided such goods are permitted for sale in the zoning district.
  - 1. Newspaper containers;
  - 2. Vending and bagged ice machines;
  - 3. Automobiles, motorcycles, golf carts, and similar motorized vehicles (permitted in the HWY District only);
  - 4. Boats and other watercraft (permitted in the HWY and WF2 districts only);
  - 5. Propane bottle exchange cages occupying less than fifty (50) square feet in area;
  - 6. Nursery and agricultural products;
  - 7. Burial monuments;
  - 8. Fueling pumps including canopies and vacuuming stations incidental to a carwash (permitted in the HWY District only);
  - 9. Automated teller machines and similar mechanical devices appurtenant to a permitted use; and

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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10. Incidental display of other goods provided the cumulative display area is less than one-hundred (100) square feet.
- C. **Standards for Permanent and Routine Outdoor Displays.** Outdoor displays are subject to the following standards:
1. Outdoor displays may be placed in front of a principal building. Newspaper containers, vending and bagged ice machines, and the incidental display of other goods shall be placed within ten (10) feet of the principal building. Automobile displays may be located within a required front yard provided they are setback not less than ten (10) feet from the front property line. All other outdoor displays as permitted in Subsection B shall observe the front yard setback requirement of the applicable zoning district;
  2. Outdoor displays placed in a rear or side yard shall observe a setback of not less than one-half (1/2) the setback requirement of the applicable zoning district;
  3. Outdoor displays abutting a residential district are subject to the screening requirements of Section 5.3.650; and
  4. No outdoor display shall be permitted to block a driveway or drive aisle, occupy a handicapped parking space or other parking space required by this Chapter, block or impede the entrance to any building, impede vision or clearance as provided in Section 5.3.600, be placed in any right-of-way or obstruct any sidewalk, or be arranged in any manner which would unduly restrict the access of emergency vehicles.
- D. **Special Outdoor Display Standards for Large Retail and Wholesale Establishments.** The Board of Zoning Appeals may permit in the HWY District, as a special exception, incidental outdoor displays in excess of one-hundred (100) square feet for retail and wholesale establishments where the principal building's gross floor area exceeds 10,000 square feet. In granting a special exception, the board may permit alternate display area locations on the lot provided all district setbacks can be met. The approval of a special exception is subject to the requirements imposed by Article III.
- E. **Temporary Displays.** Outdoor displays may be permitted in conjunction with a temporary use subject to the requirements of Article V, Division 4.
- F. **Outdoor Storage.** Outdoor storage is permitted in the HWY District subject to the following standards and provided such storage is accessory to an otherwise permitted use on the same lot:
1. Outdoor storage shall be not be located in a required front yard or in front of the principal building;
  2. The area devoted to outdoor storage shall not exceed twenty (20) percent of the gross floor area of the principal building;
  3. The area devoted to outdoor storage shall be no closer than fifty (50) feet from any residential district or any residential use;
  4. The outdoor storage area shall be enclosed with a fence not less than six (6) feet in height and the area shall be shielded from view from a public street;
  5. Materials shall not be stacked or assembled to exceed a height of eight (8) feet;
  6. No outdoor storage shall be permitted to block a driveway or drive aisle, occupy a handicapped parking space or other parking space required by this Chapter, block or impede the entrance to

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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any building, impede vision or clearance as provided in Section 5.3.600, be placed in any right-of-way or obstruct any sidewalk, or be arranged in any manner which would unduly restrict the access of emergency vehicles; and

7. Outdoor storage as permitted by this section does not include junk, salvage, or recyclable materials. The storage of junk, salvage, or recyclable materials outside of an enclosed building is prohibited.

### SECTIONS 5.3.607 through 5.3.619 Reserved

## DIVISION 2. ACCESSORY BUILDINGS & STRUCTURES

### SECTION 5.3.620 Accessory Structures in General

Accessory structures are permitted in all zoning districts and, except as may be provided elsewhere in this Chapter, are subject to the following standards:

- A. **Location.** Accessory structures shall be located behind the building line and shall not be placed in any required front yard. Accessory structures shall not be placed closer than five (5) feet from any rear or side property line and shall be located on the same lot as the main use or building;
- B. **Height.** The height of any accessory structure shall not exceed the height of the principal building on the lot in all districts. In addition, accessory structure height in the R2 District shall not exceed twenty-four (24) feet;
- C. **Building Coverage.** The area occupied by all accessory structures on a lot shall not exceed twenty-five (25) percent of the total lot area. In addition, all accessory structures on a lot shall not exceed fifty (50) percent of the gross floor area of the principal structure; and
- D. **Exceptions.** Exceptions to this section include:
  1. Fences (including walls and retaining walls), signs, and flag poles are exempted from the provisions of subsections A and B of this section; and
  2. Antennas and accessory telecommunications towers are exempt from the provisions of Section 5.3.620B.

### SECTION 5.3.621 Fences, Walls, and Retaining Walls

Fences, to include walls and retaining walls, are subject to the following standards and prohibitions:

- A. Fences placed along a common rear or side property line or placed in a required rear or side yard shall not exceed seven (7) feet in height;
- B. Fences placed in required front yards and, where permitted, along the beachfront shall not exceed four (4) feet in height; provided, in no instance shall a fence be permitted to obstruct vision at an intersection or driveway. Fences placed in a required front yard shall observe a minimum setback of two (2) feet from the property line. Fences placed along the beachfront, including its associated dune system or within SCDHEC-OCRM's jurisdictional boundary, shall observe the standards of Article VIII and the requirements of SCDHEC-OCRM;
- C. Fences located outside of a required yard shall not exceed ten (10) feet in height;

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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- D. Except in the G District, electrified fences (other than underground fences) and fences using barbed wire, razor wire, or other sharp pointed materials are prohibited;
- E. Fences composed of chain link or similar materials (chicken wire, livestock fencing, etc.) are prohibited in any required yard in all zoning districts; and
- F. **Exceptions.** 1. Chain link fences may be permitted in a required yard in conjunction with permitted outdoor recreational facilities, parks, day cares, telecommunication towers, and government facilities. The Administrator may authorize the use of chain link fencing when the use of such fencing is required to meet health, safety, or building codes and the use of other fencing materials is prohibited or impracticable; and 2. the Administrator may authorize fence heights in excess of the maximum permitted in subsections A, B, and C, if additional height is required to meet health, safety, or building codes or the additional fence height is required in conjunction with a permitted outdoor recreational facility, park, telecommunications tower, or governmental facility.

### SECTION 5.3.622 Reserved

### SECTION 5.3.623 Dumpsters

- A. Screening: The following regulations are established to mitigate the impacts of blight caused by dumpsters:
  - 1. Dumpsters shall be screened on three (3) sides to a height at least one (1) foot above the top of the dumpster;
  - 2. Individual screening will not be required when several dumpsters are clustered in one (1) location. Instead, the entire site shall be fenced to prevent dispersal of loose trash and a solid fence shall be used for trash containment;
  - 3. Fences shall be constructed with light impervious materials and shall be painted or stained to blend with the surrounding landscape;
  - 4. Fences, screening, and plant material will be kept in good repair or condition at all times; and
  - 5. These provisions shall apply to both public and private dumpsters.
- B. The following regulations are established to improve the safety of operation of dumpster accessibility from public streets:
  - 1. Dumpsters shall not impede the lawful passage of vehicular or pedestrian traffic on public rights-of-way, streets, and highways, not impede authorized public or private parking or other lawful uses on those public rights-of-way, streets, and highways adjacent to the site on which the dumpster is located;
  - 2. No dumpster shall be placed so as to impede or prevent access to any public easement or public utility installation;
  - 3. No public street or highway shall be used except on an emergency or temporary basis for the maneuvering of vehicles accessing or servicing dumpsters; and
  - 4. Dumpsters shall be placed on a permanent concrete or other impermeable solid base with bollards for protection of the required screening.

### SECTIONS 5.3.624 through 5.3.629 Reserved

# ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

## DIVISION 3. PARKING AND LOADING STANDARDS

### SECTION 5.3.630 Off-Street Parking Required

- A. A. Off-street parking shall be provided for all uses hereafter established (including a change of use for an existing building or structure) or at such time any building or structure is erected, enlarged, or increased in capacity. Permanent off-street parking shall be provided, at a minimum, in accordance with Table 5.3.630A “Parking Chart” and Table 5.3.502 “Schedule of Uses.”

<b>Table 5.3.630A PARKING CHART</b>	
<b>PARKING CODE</b>	<b>MINIMUM PARKING SPACES REQUIRED</b>
<b>A</b>	Two (2) spaces per dwelling unit.
<b>B</b>	One and one half (1 ½) spaces per dwelling unit plus an additional .25 spaces for each additional bedroom above one (1) and one-half (1/2) spaces per lock-out room (where permitted).
<b>C</b>	One (1) space per bed.
<b>D</b>	One (1) space for each 100 square feet of gross floor area (including areas devoted to outdoor dining) plus space to accommodate the stacking of four (4) vehicles where drive-thru facilities are provided.
<b>E</b>	One (1) space for each 200 square feet of gross floor area.
<b>F</b>	One (1) space for each 225 square feet of gross floor area plus space to accommodate all service vehicles used in connection therewith.
<b>G</b>	One (1) space for each room to be rented plus 75 percent of the parking required for other uses associated with the establishment.
<b>H</b>	One (1) space for each four (4) seats in the main assembly room or one (1) per every thirty (30) square feet of floor area in the main assembly room, whichever is greater.
<b>I</b>	One (1) space for each four (4) seats.
<b>J</b>	One (1) space for each 200 square feet of office area plus four (4) spaces for each service bay.
<b>K</b>	One (1) space for each three (3) persons that the facility is designed to accommodate when fully utilized, plus one (1) space per 200 square feet of gross floor area used for office or similar activities.
<b>L</b>	Four (4) spaces for each driving tee or green, three (3) spaces for each basketball and tennis court, one and one-half (1 ½) spaces per employee during maximum seasonal employment, and one (1) space per each 10,000 square feet of lot area.
<b>M</b>	One (1) space for each 1,000 square feet of lot area.
<b>N</b>	Two (2) spaces per classroom (elementary schools), five (5) spaces per classroom (junior high) and ten (10) spaces per classroom (high school, college, or other).
<b>O</b>	Five (5) spaces per each doctor or dentist.
<b>P</b>	One (1) space for each four (4) seats in the chapel or parlor, plus one (1) space for each 200 square feet of office area.
<b>Q</b>	One (1) space for each two (2) patient beds.
<b>R</b>	Two (2) spaces per bed, plus one (1) space per 200 square feet of office area.
<b>S</b>	One (1) space per each 500 square feet of gross floor area, plus one (1) space per every three (3) employees.
<b>T</b>	One (1) space per employee plus one (1) space per every five (5) children or adults enrolled.

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

<b>Table 5.3.630A PARKING CHART</b>	
<b>U</b>	One (1) space for each 200 square feet of office or waiting area plus two (2) spaces for each service bay.
<b>V</b>	Ten (10) spaces per wash unit for automatic wash, plus five (5) spaces per wash area for manual wash. Note: Off-street vehicle stacking space may be used to satisfy this requirement, if the plan is acceptable to the Administrator.
<b>X</b>	Two (2) spaces per fuel pump plus one (1) space per each 300 square feet of floor area.

B. In determining required parking spaces, the following shall apply:

1. The parking codes, as provided in Table 5.3.630A, are assigned to the various uses by Table 5.3.502 "Schedule of Uses;"
2. In cases of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately; and
3. Where a fractional space results, any fraction shall be counted as one (1) parking space.
4. Handicapped accessible parking spaces shall count toward the minimum number of off-street parking spaces as specified in Table 5.3.630A. The required minimum number of handicapped accessible parking spaces shall be as provided in Table 5.3.630B or ANSI A117.1, whichever is more restrictive.

In addition, handicapped van accessible parking spaces are required at a ratio of one van accessible space for each six (6) handicapped accessible parking spaces required, with a minimum of one van accessible space. The Zoning Board of Appeals does not have the authority to grant a variance from the minimum number, type, or dimensions of handicap parking.

<b>Table 5.3.630B MINIMUM HANDICAPPED PARKING SPACES REQUIRED</b>			
<b>TOTAL PARKING SPACES IN LOT</b>	<b>MINIMUM NUMBER OF ACCESSIBLE SPACES</b>		
	Standard	Van Accessible	Total Handicap Spaces
1 to 25	0	1	1
26 to 50	1	1	2
51 to 75	2	1	3
76 to 100	3	1	4
101 to 150	4	1	5
151 to 200	5	1	6
201 to 300	5	2	7
301 to 400	6	5	8
401 to 500	7	2	9
501 to 1000	2 percent of total*		
1001 and over	20, plus 1 for each 100*		
* 1 of every 6 Handicapped Accessible Parking Spaces must be Van Accessible.			

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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### SECTION 5.3.631 Maximum Off-Street Parking

Permanent off-street parking shall not exceed 125 percent of the minimum number of spaces for a land use. This section shall not apply to single-family and two-family dwellings.

### SECTION 5.3.632 Exception to Minimum and Maximum Parking Standards

- A. Uses in the MS1 or MS2 Zoning districts shall be exempt from providing off-street parking minimums. If off-street parking is provided, the design standards in sections 5.3.633, 5.3.634, and 5.3.635 shall be met, in addition to handicap parking minimums in relation to the total number of spaces provided.
- B. Notwithstanding the provisions of Sections 5.3.630 and 5.3.631, the Administrator may accept a higher or lower number of parking spaces than required by this Division based on developer-submitted parking data such as a shared parking analysis or appropriate standards from another accepted source.
- C. The shared parking analysis shall follow the guidelines of the Urban Land Institute's Shared Parking report. Any shared or off-site parking to be utilized shall require the recording of a perpetual easement, in form and substance acceptable to the Administrator, in the office of the Register of Deeds of Horry County.
- D. If the Administrator accepts a lower number of parking spaces than is required in Section 5.3.630, the site plan may be required to accommodate the higher number of spaces otherwise required in case of future need. The design and location of these additional parking spaces shall meet the following site design standards:
  1. The area necessary to accommodate these spaces shall not be included as part of the site's minimum open space;
  2. The area necessary to accommodate these spaces shall be included in the impervious coverage for the site and accounted for in the drainage design;
  3. Until or unless such spaces are needed, as determined by the Administrator, the areas shall be maintained as open spaces; and
  4. The tree approval for the area of additional parking shall be granted separately from the initial approval, and the clearing of trees in that area and subsequent tree replacement shall not occur until or unless such additional parking is required to be constructed.

### SECTION 5.3.633 Parking Location Requirements

- A. Where practical, required parking shall be located on the same lot as the primary use. The Administrator may authorize the use of remote or off-site parking, subject to the following standards:
  1. The use requiring off-site parking is located within the Town of Atlantic Beach;
  2. Where off-site parking is shared by multiple uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately; and
  3. The maximum walking distance from off-site parking to the primary entrance of the building served shall not exceed 300 feet for residential uses and 700 feet for all other uses.

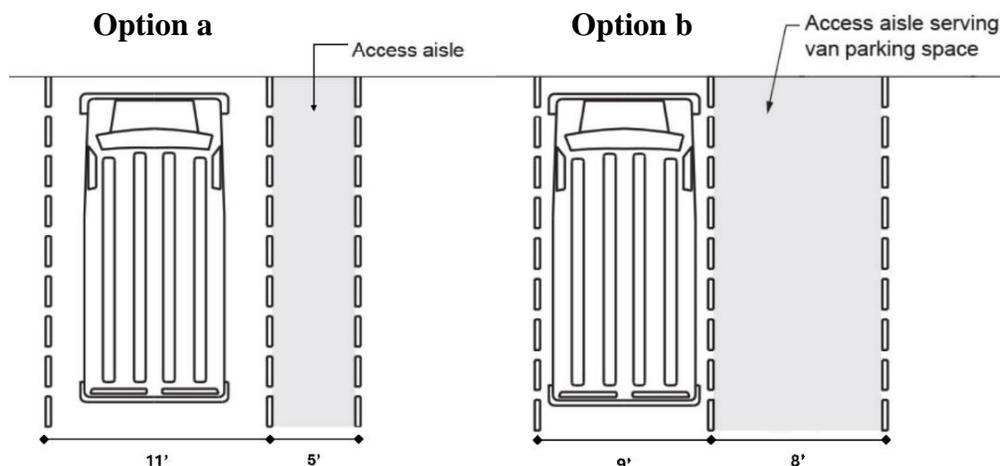
### SECTION 5.3.634 Parking Space Size and Design Standards

- A. **Standard parking space dimensions.** The size of a parking space for one (1) vehicle shall consist of a rectangular area having dimensions of not less than nine (9) feet by nineteen (19) feet. For those parking spaces that adjoin a median at the end of a parking bay or adjoin a median separating

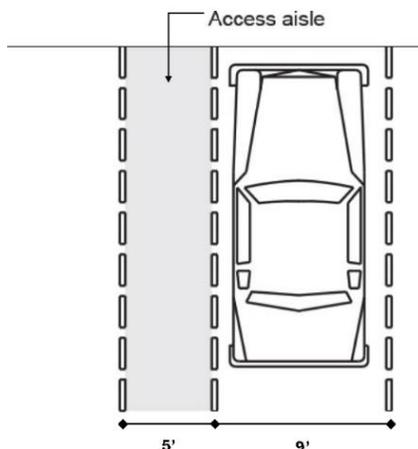
## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

parking spaces in a row of parking, the width of the parking space shall be expanded to eleven (11) feet. Parallel parking spaces shall be no less than eight (8) feet by twenty-three (23) feet.

- B. **Compact car space dimensions.** Up to one-fifth (1/5) of the number of spaces provided (given that the total provided meets or exceeds the minimum requirements of this Chapter) may be designed for use by compact automobiles, subject to approval by the Administrator. Compact spaces shall be a minimum of nine (9) feet by fifteen (15) feet and clearly marked with signage or other marking approved by the Administrator as a compact space. For those parking spaces that adjoin a median at the end of a parking bay or adjoin a median separating parking spaces in a row of parking, the width of the parking space shall be expanded to ten (10) feet. Parallel compact car parking spaces shall be no less than eight (8) feet by nineteen (19) feet.
- C. **Handicapped parking space dimensions.** Parking spaces necessary to provide accessibility and required handicapped parking shall comply with the requirements of the American National Standards Institute (ANSI A-117).
1. Handicapped van accessible parking space shall be:
    - a. Eleven (11) feet by nineteen (19) feet with a five (5) foot wide access aisle, or
    - b. Nine (9) feet by nineteen (19) feet with an eight (8) foot wide access aisle.



2. Standard handicapped accessible parking space shall be at least nine (9) feet by nineteen (19) feet with a five (5) foot-wide access aisle.



## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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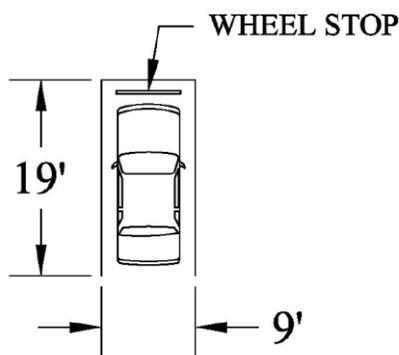
3. **Signs.** Each handicapped accessible parking space shall be designated as reserved by a sign showing the International Symbol of Accessibility and a second sign stating that the space is van accessible. Signs shall be mounted at least five (5) feet above the ground (measured to the bottom of the sign) so that they cannot be obscured by a vehicle parked in that space. Access aisles shall be marked so as to discourage parking in them.



4. Handicapped accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In parking facilities that do not serve a particular building, or buildings with multiple entrances, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.

### D. Wheelstop Requirements.

1. Wheelstops shall be required in all handicapped parking spaces.
2. Wheelstops shall be required in all parking spaces that abut sidewalks and parking spaces that abut landscape areas where the parking area does not contain curbing. Wheelstops shall not be installed in parallel parking spaces.
3. Wheelstops shall be located thirty (30) inches on center from the front of the parking space. The stop shall be a minimum of four (4) inches in height and shall have the capacity to stop both wheels of a vehicle.
4. Wheelstop requirements can be waived if the sidewalk in front of the parking space is at least six (6) feet in width and is raised at least four (4) inches.



# ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

## SECTION 5.3.635 Parking and Loading Area Design and Construction Requirements

- A. Access to parking and loading facilities shall be designed so as not to obstruct the free flow of traffic.
- B. There shall be adequate provision for ingress and egress to all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians. Except for one and two-family residential uses, each space shall be located so that no vehicle is required to back into the street for ingress or egress.
- C. In developments where vehicles may be expected to wait (including, but not limited to drive-thru restaurants, banks, and gated parking facilities), adequate stacking space shall be required.
- D. Parking and loading areas including access drives shall be graded for drainage and surfaced with concrete, asphaltic concrete, asphalt, porous paving blocks, compacted shell, or other materials approved by the Administrator which are unlikely to cause substantial maintenance problems. Except for one and two-family uses, all parking spaces shall be striped and clearly delineated. All parking and loading areas shall be maintained in proper condition, free of weeds, dust, trash, and debris. If, on the effective date of this Chapter, there exists lots on which the parking facilities are not required to be surfaced, they shall be maintained in proper condition as noted above.
- E. Parking and loading areas shall observe a minimum setback of five (5) feet from the street's right-of-way. Vegetative screening shall be provided along street rights-of-way, no more than three (3) feet in height and not interfering with visibility at driveways, when parking spaces are arranged facing a street. Parking or loading areas which abut a residential district or use shall observe a minimum setback of ten (10) feet from the residential property line or district boundary. Screening shall be provided along any rear or side yard abutting a residential district. Screening shall consist of a continuous planting, hedge fence, or wall, or landscaped earthen mound no less than six (6) feet in height.
- F. The width of driving aisles in parking areas shall be in accordance with the requirements of Table 5.3.635F. One-way traffic shall only be allowed when there are two points of ingress and egress from a parking area.

<b>Table 5.3.635F Driving Aisle Width</b>		
<b>Parking Angle</b>	<b>Minimum One-Way Driving Aisle Width</b>	<b>Minimum Two-Way Driving Aisle Width</b>
<b>Parallel</b>	12 feet	22 feet
30 degrees	12 feet	22 feet
45 degrees	13 feet	22 feet
60 degrees	18 feet	22 feet
90 degrees	22 feet	22 feet
Driving Aisle without Parking	10 feet	20 feet

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

- G. Not more than ten (10) continuous parking spaces shall be allowed in a row of parking without separation by a median. All medians shall be at least twelve (12) feet wide unless specified otherwise. A median of at least fifteen (15) feet in width shall be at the end of each parking bay. The Administrator may allow modification to these provisions in order to preserve trees and other native vegetation or for parking located under buildings.

### SECTION 5.3.636 Off-Street Loading Requirement

- A. Whenever the normal operation of any use requires that goods, merchandise, or equipment be routinely delivered to or shipped from the premises, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner. Determinations of the applicability of this section shall be made by the Administrator.
- B. Table 5.3.636B indicates the number of loading spaces that are required; however, the Administrator may require additional spaces if necessary to satisfy the intent of this standard, upon evaluation of site and use data submitted by the applicant. The minimum loading spaces within Table 5.3.636B are not required in the MS1 and MS2 districts; however, if loading spaces are provided, the loading design standards of Sections 5.3.635 and 5.3.636 shall be met.

<b>Table 5.3.636B Loading Spaces Required</b>	
<b>Gross Floor Area of Structure</b>	<b>Number of Spaces</b>
0 to 25,000 square feet	1
25,001 to 40,000 square feet	2
40,001 to 100,000 square feet	3
100,001 to 160,000 square feet	4
Over 160,000 square feet	4 plus 1 space for each additional 80,000 square feet above 160,000 square feet

- C. Loading spaces are subject to the design and construction requirements of Section 5.3.635.
- D. The minimum dimensions for each loading space shall be twelve (12) feet by forty (40) feet. Additional length may be required by the Administrator if deemed necessary for an expected type of vehicle usage. An overhead clearance of fourteen (14) feet from pavement grade shall be required.
- E. No area designed for loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- F. Notwithstanding the provisions of Section 5.3.636B, the Administrator is authorized to reduce the number of required spaces in cases where:
1. One (1) or more structures on the lot were constructed before the effective date of this Chapter;
  2. A change in use does not involve any enlargement of a pre-existing structure; and

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

3. The loading area requirements for this section cannot be satisfied because there is not sufficient area available on the lot that can practically be used to satisfy the loading requirements of this section.

### SECTIONS 5.3.637 through 5.3.639 Reserved

## DIVISION 4. LIGHTING STANDARDS

### SECTION 5.3.640 Site Lighting Design Requirements

All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

- A. **Fixture (luminaire).** The light source shall be completely concealed within an opaque housing and shall not be visible from any street right-of-way.
- B. **Light Source (lamp).** Only incandescent, florescent, metal halide, or color corrected high-pressure sodium may be used. The same or substantially similar types of lighting shall be used on any one (1) site or development.
- C. **Mounting.** Fixtures must be mounted in such a manner that its cone of light does not cross any property line of the site.
- D. **Illumination Levels.** All site lighting shall be designed so that the level of illumination as measured in foot candles (fc) at any one (1) point meets the standards in Table 5.3.640D. Minimum and maximum levels are as measured at any one (1) point. Average level is not to exceed the value calculated using only the area of the site intended to receive illumination.

Table 5.3.640D Illumination Levels			
Type of Lighting	Minimum Level	Average Level	Maximum Level
Canopy Area Lighting	2.0 fc	12.00 fc	20.0 fc
Non-residential Parking Lots	.2 fc	1.50 fc	10.0 fc
Residential Parking Lots	.2 fc	1.00 fc	8.0 fc
Active Sports Facilities	15.0 fc	20.0 fc	25.0 fc
Golf Driving Ranges	2.0 fc	5.0 fc	10.0 fc
Miniature Golf Courses	.2 fc	10.0 fc	15.0 fc
Walkways and Streets	.2 fc	.75 fc	8.0 fc
Landscape and Decorative	.2 fc	.50 fc	5.0 fc

### SECTION 5.3.641 Commercial Parking Lot Lighting

All non-residential parking lots shall be required to provide lighting meeting the standards of Section 5.3.640D during night-time hours of operation.

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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### SECTION 5.3.642 Canopy Area Lighting

All development that incorporates a canopy area over fuel sales, automated bank machines, or similar installations shall be required to provide lighting for the canopy area meeting the standards of Section 5.3.640. For the purpose of this Article, the canopy area shall be defined as the area immediately below the canopy. Remaining areas shall be lighted according to the applicable standards of Section 5.3.640.

### SECTIONS 5.3.643 through 5.3.649 Reserved

## DIVISION 5. BUFFERING AND SCREENING REQUIREMENTS

### SECTION 5.3.650 Screening and Buffering

When a nonresidential use abuts or is contiguous to property within an R2 District, or as may be required for specific uses by this Chapter, such nonresidential uses shall provide or otherwise establish and maintain a landscaped buffer strip eight (8) feet in width running the length of the boundary line separating the uses, or erect and maintain a six (6) foot high brick or solid wooden fence along the property line between the two (2) uses. This buffer shall not infringe on the sight distance at intersections or encroach into a required front yard at a height greater than three (3) feet.

### SECTIONS 5.3.651 through 5.3.659 Reserved

## DIVISION 6. TREE PROTECTION

### SECTION 5.3.660 Purpose and Intent

- A. These tree protection standards and regulations are hereby established in order to lessen air pollution, to promote clean air quality by increasing dust filtration, to reduce noise, heat and glare, to prevent soil erosion, to improve surface drainage and minimize flooding, to ensure that noise, glare, and other distractions of movement in one (1) area do not adversely affect activity within other adjacent areas, to emphasize the importance of trees as a visual buffer, to beautify and enhance improved and undeveloped land, to maintain the ambiance of the Town, to ensure that tree removal does not reduce property values, and to minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters.
- B. The intent of this Article is to encourage the protection and replanting of trees consistent with the economic and healthful enjoyment of private property and to treat all sites equitably for the purpose of protecting and replanting trees and maintaining adequate tree coverage consistent with Subsection A above.

### SECTION 5.3.661 Preservation of Trees and Native-Vegetation

- A. No person shall cut, destroy, cause to be destroyed, move, or remove any tree as required by this section without first obtaining a zoning permit. A zoning permit shall be required prior to the following activities:
  1. The removal of any tree six (6) inches or greater in DBH;
  2. The pruning of limbs greater than four (4) inches in diameter; and
  3. The removal of any tree that would cause a lot to fall below the minimum DBH per acre requirements of this Division.

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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B. **Exemption.** The requirements of this division shall be adhered to except:

1. During an emergency such as a hurricane, tornado, ice or wind storm, flood, or any other similar act of nature;
2. If the failure to remove a tree would constitute an imminent danger to the environment, property, public health, safety, or welfare due the hazardous or dangerous condition of such tree. Removal shall be reported to the Administrator within three (3) days;
3. For necessary tree removal by a utility company consistent with plans submitted to the Administrator. Such plans shall incorporate appropriate provisions for removal of any felled trees; or
4. For the transplanting of trees, or for routine or seasonal pruning provided that pruning is done according to the guidelines of the International Society of Arboriculture. Trees over six (6) inches DBH may not be topped, except as provided in parts 1 and 2 above. Removal of more than thirty (30) percent of the leaf surface at any one (1) time shall be considered tree removal and shall be treated as such.

Tree planting may be required by the Administrator in the above situations.

- C. Consistent with the purposes of this Article, all persons shall make reasonable efforts to preserve and retain any existing, self-supporting plants, whether such plants are trees as defined herein or flora which are part of the understory, shrub layer, or herb layer. The minimum protection size for trees by species is provided in Table 5.3.662.
- D. Prior to the receipt of final development approval, underbrushing of any property other than single-family lots and public utility easements shall not occur unless approved by the Administrator.
1. The applicant for such approval must schedule an on-site inspection with the Administrator to explain the extent and purpose of the underbrushing activity. Purposes that will be considered include showing property for sale and facilitating surveying work in very densely vegetated areas;
  2. In all cases, applicants shall be required to maintain all vegetation in required open space except for a six (6) foot wide path providing access to the interior of the property. Such open space areas shall be clearly marked and protected prior to the commencement of the underbrushing activity;
  3. The intent of this provision is the retention of suitable species of native understory that can be incorporated into landscape plans for development plan approvals. Since native plants are drought-tolerant, retaining such vegetation conserves water, preserves indigenous plant species and dependent wildlife species, and saves the applicant landscaping and irrigation costs. Suitable species include evergreen shrub and understory plants such as native hollies (*Ilex* spp.), saw palms (*Serenoa repens*), red bay (*Persea borbonia*), and wax myrtle (*Myrica cerifera*), as well as flowering varieties like horse sugar (*Symplocus tinctoria*) and native blueberries (*Vaccinium* spp.);
  4. Any property owner who fails to abide by this restriction shall be required to restore the affected property to a condition as close to its original condition as practicable; and
  5. Following the receipt of final development approval, the applicant shall work with the Administrator to preserve understory in the required open space.

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

### SECTION 5.3.662 Protected and Specimen Trees

*Protected and specimen trees.* The following trees are designated by the Town of Atlantic Beach as either protected or specimen trees when the diameter is attained as indicated in Table 5.3.662 below:

<b>Table 5.3.662 Protected and Specimen Trees</b>		
<b>Tree Name</b>	<b>Protected @</b>	<b>Specimen Tree @</b>
Beech (American)	8 inches but less than 24 inches	24 inches or greater
Birch (River)	6 inches but less than 18 inches	18 inches or greater
Cedar (Eastern Red)	8 inches but less than 24 inches	24 inches or greater
Cypress (Bald)	8 inches but less than 24 inches	24 inches or greater
Cypress (Pond)	8 inches but less than 24 inches	24 inches or greater
Dogwood (Flowering)	6 inches but less than 12 inches	12 inches or greater
Elm (American)	8 inches but less than 24 inches	24 inches or greater
Elm (Winged)	8 inches but less than 24 inches	24 inches or greater
Hickory (Mockernut)	8 inches but less than 24 inches	24 inches or greater
Hickory (Pignut)	8 inches but less than 24 inches	24 inches or greater
Hickory (Shagbark)	8 inches but less than 24 inches	24 inches or greater
Holly (American)	6 inches but less than 12 inches	12 inches or greater
Magnolia (Southern)	8 inches but less than 16 inches	16 inches or greater
Maple (Red)	8 inches but less than 24 inches	24 inches or greater
Oak (Laurel)	8 inches but less than 24 inches	24 inches or greater
Oak (Live)	8 inches but less than 24 inches	24 inches or greater
Oak (Post)	8 inches but less than 24 inches	24 inches or greater
Oak (Southern Red)	8 inches but less than 24 inches	24 inches or greater
Oak (Water)	8 inches but less than 24 inches	24 inches or greater
Oak (Willow)	8 inches but less than 24 inches	24 inches or greater
Oak (White)	8 inches but less than 24 inches	24 inches or greater
Pine (Long Leaf)	8 inches but less than 24 inches	24 inches or greater
Poplar (Yellow)	8 inches but less than 24 inches	24 inches or greater
Spruce Pine	8 inches but less than 24 inches	24 inches or greater
Sycamore	8 inches but less than 24 inches	24 inches or greater
Tupelo (Black)	8 inches but less than 24 inches	24 inches or greater
Tupelo (Water)	8 inches but less than 24 inches	24 inches or greater
All other Tree Species (excluding pine varieties)	24 inches but less than 36 inches	36 inches or greater

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### SECTION 5.3.663 Guidelines for Tree Removal (excluding protected trees and specimen trees)

Trees, excluding protected and specimen trees, with a trunk diameter-at-breast-height of ten (10) inches or more that are located within the required front, side, or rear yard of the applicable zoning district shall not be removed unless:

1. The tree poses a safety hazard to pedestrian or vehicular traffic;
2. The tree poses a hazard to buildings or utilities. For the purpose of this Article, any tree or root system that poses a hazard to a building or utility foundation or driveway may be removed with the approval of the Administrator;
3. The tree presents a situation which prevents the development of a lot or the physical use thereof for proposed development. Tree removal of non-protected trees may be allowed by the Administrator, and only those trees whose removal is determined by the Administrator to be essential for development will be removed;
4. The tree is diseased, dead, or weakened by age, storm, fire, or other injury which is a source of hazard to people, buildings or other improvements on a lot;
5. The property owner wishes to thin or remove existing trees from his property to allow for the proper growth of remaining trees or to enhance the overall appearance of the landscaped area. Thinning may be authorized by the Administrator; or
6. The tree is located within ten (10) feet of the footprint of a building to be constructed.

### SECTION 5.3.664 Guidelines for Tree Removal of Protected and Specimen Trees

- A. All specimen trees (including those located in the buildable area) as well as protected trees located within the required front, side, or rear yard of the applicable zoning district, shall not be removed unless a licensed or ISA certified arborist, South Carolina registered forester, landscape architect, architect, or engineer certifies that:
  1. The tree poses a safety hazard to pedestrian or vehicular traffic;
  2. The tree poses a hazard to existing buildings or utilities; or
  3. The tree is diseased, dead, or weakened by age, storm, fire, or other injury, which is a source of hazard to people, buildings, or other improvements on a lot.
- B. Notwithstanding the provisions of Subsection A, in a situation which prevents the development of a lot or the physical use thereof for proposed development, the Administrator may authorize the removal of a protected or specimen tree. Such authorization is limited to only those trees whose removal is essential for development. In addition, the Board of Zoning Appeals may grant a variance to minimum yard setbacks to save specimen trees when feasible.

### SECTION 5.3.665 Tree Marking

- A. Prior to tree removal or the commencement of construction on a site, the following uniform colored ribbon system shall be used:
  1. Blue for trees to be saved; and

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

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2. Red for trees to be removed.
- B. In heavily wooded areas, the Administrator may give permission to mark large groups of trees to be removed or saved with appropriately colored ribbon along the perimeter of the area.

### SECTION 5.3.666 Establishment of a Tree Protection Zone

- A. Prior to commencement of any grading, construction, or tree removal, a tree protection zone for any tree located within twenty-five (25) feet of any proposed grading, construction, or tree removal should be established by physical barriers and maintained until such work is completed. Placement and the type of barriers shall be at the discretion of the Administrator.
- B. The size of the tree protection zone may be adjusted at the discretion of the Administrator and so noted on the zoning permit. The tree protection zone is determined by the size of the tree canopy and environmental factors.
- C. The cleaning of equipment, storage of materials or dirt, disposal of waste material such as paint, oil solvents, or other harmful substances, or any other such acts which may be harmful to the continued vitality of the tree within the tree protection zone shall be prohibited.

### SECTION 5.3.667 Tree Damage

Any tree damaged during construction, or damage occurring as a result of such construction, shall be repaired to the satisfaction of the Administrator according to accepted International Society of Arboriculture practices. Tree damage must be repaired prior to the issuance of a Certificate of Compliance.

### SECTION 5.3.668 Requirement for Minimum Standard of Tree Coverage

- A. All sites in the MS1, MS2, HWY, WF1, and WF2 districts shall have a minimum standard of tree coverage at maturity of 900 Adjusted Caliper Inches (ACI) of trees per acre of pervious surface area. This minimum standard shall be based upon the total site acreage less the maximum impervious surface required for the respective district.

**EXAMPLE:** A 2 acre site in a HWY District is permitted a maximum impervious surface coverage of 70 percent or 1.4 acres. This leaves .6 acres of pervious surface. Multiplied by 900 adjusted caliper inches, it gives a site standard of 540 adjusted caliper inches which must be met post-development.

- B. To arrive at the ACI of trees on the site, the following Tree Value Factors shall be multiplied by the respective ACI inches in each category as listed in the Tree Equivalency Table, Section 5.3.569, and then totaled:

**EXAMPLE:** A site has 200 inches of Category I trees; 550 inches of Category II; 1,020 inches of Category III; 100 inches of Category IV for a total pre-development tree value ACI of 1,147.5 for this site.

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Table 5.3.668B Tree Value Factors		
Category	Value Factors	
Category I (highest)	Broad-leaved Evergreen, Overstory Hardwoods, and Endangered Species	1.00
Category II	Deciduous Overstory Hardwoods and Broad- leaved Evergreen Understory	0.75
Category III	Cone-Bearing Evergreens	0.50
Category IV	Ornamentals and Palms	0.25

- C. Supplemental planting shall be at fifteen (15) percent of the difference between the minimum standard ACI less the predevelopment ACI on the site.

**EXAMPLE:** The site has 1,147.5 ACI pre-development (which is greater than the site requirement of 990 ACI, so no supplemental planting is required). If, however, the site had 800 ACI pre-development, it would be 190 inches below the site requirement. Multiplying  $190 \times .15 = 28.5$  inches of trees to be planted to raise the site to the minimum standard.

- D. Replacement planting shall be at thirty (30) percent of the difference between minimum standard ACI and the ACI of trees remaining after construction.

**EXAMPLE:** If the site has 500 ACI after development:  $990 - 500 = 490 \times .30 = 147$  inches must be replaced.

- E. All supplemental and replacement trees shall be at least ten (10) feet tall and have a trunk diameter of not less than two (2) inches when planted for Categories I and II and at least six (6) feet tall and have a trunk diameter not less than one (1) inch when planted for Categories III and IV. Wax myrtles must be a minimum of four (4) feet tall and have the largest stem not less than one (1) inch in diameter.
- F. Since it is desirable that planting of trees be compatible with the site and with neighboring sites, and that native trees are preferred to naturalized, planting shall be in the same Category as those removed or higher. Endangered Species and trees that are local, state, or federal records in size for that species may not be removed, and every effort must be made to protect them.
- G. Within 120 days following the issuance of a Temporary Certificate of Zoning Compliance, supplemental and replacement trees shall be planted consistent with the requirements of the tree approval, or a Final Certificate of Zoning Compliance shall not be issued.
- H. After development is complete, the Administrator shall continue to make random inspections to ensure that all existing trees of protected size as well as replacement and/or supplemental trees are maintained. Tree planting shall be required should any of these trees die, be removed, or be destroyed at any time after completion of development. This regulation applies to all projects regardless of the date the development permit or development approval was issued.
- I. If at the time of this Chapter's adoption, there exist lots that do not contain the required ACI, such sites may continue in nonconformity pursuant to Article IX. Any change of use, new construction, or the issuance of a zoning permit affecting such a lot shall thereupon require compliance with the minimum requirements of this Article.

# ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

## SECTION 5.3.669 Tree Equivalency Table

The purpose of the following Tree Equivalency Table (on the following page) is to illustrate the relative value of broad groups of trees, as well as individual trees; provide guidance in choosing trees; and provide guidance in selecting trees to supplement inadequate ACI of trees on lots.

<b>Table 5.3.669 Tree Equivalency Table</b>			
<b>CATEGORY I: Broad-leaved Evergreen Overstory Hardwoods and Endangered Species</b>			
<i>Tree and Species Name</i>		<i>Tree and Special Name</i>	
American Holly	<i>Ilex opaca</i>	Pond Cypress	<i>Taxodium.distichum var. nutans</i>
Bald Cypress	<i>Taxodium distichum</i>	Spruce Pine	<i>Pinus glabra</i>
Laurel Oak	<i>Quercus laurifolia</i>	Southern Magnolia	<i>Magnolia grandiflora</i>
Live Oak	<i>Quercus virginiana</i>		
<b>CATEGORY II: Deciduous Overstory Hardwoods and Broad-leaved Evergreen Understory</b>			
<i>Tree and Species Name</i>		<i>Tree and Special Name</i>	
Allegheny Chinkapin	<i>Castanea pumila</i>	Pawpaw	<i>Asimina triloba</i>
American Beech	<i>Fagus grandifolia</i>	Pecan	<i>Carya illinoensis</i>
American Elm	<i>Ulmus americana</i>	Pignut Hickory	<i>Carya glabra</i>
American Hornbeam	<i>Carpinus caroliniana</i>	Planer Tree	<i>Planera aquatica</i>
American Sycamore	<i>Platanus occidentalis</i>	Post Oak	<i>Quercus stellata</i>
Bigleaf Snowbell	<i>Styrax grandifolia</i>	Pumpkin Ash	<i>Fraxinus profunda</i>
Bitternut Hickory	<i>Carya cordiformis</i>	Red Buckeye	<i>Aesculus pavia</i>
Black Cherry	<i>Prunus serotina</i>	Red Maple	<i>Acer rubrum</i>
Black Oak	<i>Quercus velutina</i>	Red Mulberry	<i>Morus rubra</i>
Black Gum	<i>Nyssa sylvatica</i>	Redbay	<i>Persea borbonia</i>
Black Willow	<i>Salix nigra</i>	River Birch	<i>Betula nigra</i>
Blackjack Oak	<i>Quercus marilandica</i>	Sand Hickory	<i>Carya pallida</i>
Bluejack Oak	<i>Quercus incana</i>	Sassafras	<i>Sassafrass albidum</i>
Boxelder	<i>Acer negundo</i>	Scrub Hickory	<i>Carya floridana</i>
Buckthorn Burnelia	<i>Burnelia lycioides</i>	Shumard Oak	<i>Quercus shumardii</i>
Carolina Ash	<i>Fraxinus caroliniana</i>	Sourwood	<i>Oxydendrum arboreum</i>
Carolina Basswood	<i>Tilia caroliniana</i>	Southern Bayberry	<i>Myrica cerifera</i>
Carolina Buckthorn	<i>Rhamnus caroliniana</i>	Southern Red Oak	<i>Quercus falcata</i>
Carolina Silverbell	<i>Halesia carolina</i>	Sugarberry	<i>Celtis laevigata</i>
Coastal Plain Willow	<i>Salix caroliniana</i>	Swamp Chestnut Oak	<i>Quercus michauxii</i>
Common Hoptree	<i>Ptelea trifoliata</i>	Swamp Cottonwood	<i>Populus heterophylla</i>
Common Persimmon	<i>Diospyros virginiana</i>	Sweet Gum	<i>Liquidamber styraciflua</i>
Devilwood	<i>Osmanthus americanus</i>	Sweetbay	<i>Magnolia virginiana</i>
Eastern Cottonwood	<i>Populus deltoides</i>	Tough Bumelia	<i>Bumelia tenax</i>
Eastern Hophornbeam	<i>Ostrya virginiana</i>	Turkey Oak	<i>Quercus laevis</i>
Florida Basswood	<i>Tilia floridana</i>	Water Hickory	<i>Carya aquatica</i>

## ARTICLE VI. SUPPLEMENTAL ZONING STANDARDS

**Table 5.3.669  
Tree Equivalency Table**

<b>CATEGORY II: Deciduous Overstory Hardwoods and Broad-leaved Evergreen Understory</b>			
<i>Tree and Species Name</i>		<i>Tree and Special Name</i>	
Floria Maple	<i>Acer barbatum</i>	Water Oak	<i>Quercus nigra</i>
Green Ash	<i>Fraxinus Pennsylvanica</i>	Water Tupelo	<i>Nyssa aquatica</i>
Hercules Club	<i>Anthoxylum clava-herculis</i>	Waterlocust	<i>Gleditsia aquatica</i>
Honeylocust	<i>Gleditsia triancanthus</i>	White Ash	<i>Fraxinus americana</i>
Loblolly Bay	<i>Gordonia lasianthus</i>	White Oak	<i>Quercus alba</i>
Mockernut Hickory	<i>Carya tomentosa</i>	Willow Oak	<i>Quercus phellos</i>
Myrtle Oak	<i>Quercus myrtifolia</i>	Witch Hazel	<i>Harnamelis virginiana</i>
Overcup Oak	<i>Quercus lyrata</i>	Yellow Poplar	<i>Liriodendron tulipifera</i>
<b>CATEGORY III: Cone-Bearing Evergreens</b>			
<i>Tree and Species Name</i>		<i>Tree and Special Name</i>	
Eastern Red Cedar	<i>Juniperus virginiana</i>	Stash Pine	<i>Pinus elliottii</i>
Loblolly Pine	<i>Pinus taeda</i>	Shortleaf Pine	<i>Pinus echinata</i>
Long Leaf Pine	<i>Pinus palustris</i>	Southern Red Cedar	<i>Juniperis silicicola</i>
Pond Pine	<i>Pinus serotina</i>		
<b>CATEGORY IV: Ornamentals, Palms, and Small Understory Trees</b>			
<i>Tree and Species Name</i>		<i>Tree and Special Name</i>	
American Plum	<i>Prunus Americana</i>	Flatwoods Plum	<i>Prunus umbellate</i>
Cabbage Palmetto	<i>Sabal palmetto</i>	Flowering Dogwood	<i>Cornus florida</i>
Carolina Laurelcherry	<i>Prunus caroliniana</i>	Fringetree	<i>Chionanthus virginicus</i>
Chickasaw Plum	<i>Prunus angustifolia</i>	Littlehip Hawthorn	<i>Crataegus spathulata</i>
Common Sweetleaf	<i>Symplocus tinctoria</i>	Parsley Hawthorn	<i>Crataegus marshallii</i>
Crepe Myrtle	<i>Lagerstroernia indica</i>	Possumhaw Holly	<i>Ilex deciduas</i>
Dahoon Holly	<i>Ilex cassine</i>	Southern Crab Apple	<i>Malus angustifolia</i>
Eastern Coralbean	<i>Erythrina herbacea</i>	Sparkleberry	<i>Vaccinium arboretum</i>
Eastern Redbud	<i>Cercis Canadensis</i>	Yaupon Holly	<i>Ilex vomitoria</i>

**SECTIONS 5.3.670 through 5.3.699 Reserved**

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# ARTICLE VII. SIGN STANDARDS

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## DIVISION 1. GENERAL PROVISIONS

### SECTION 5.3.700 Purpose and Intent

It is the purpose of this Article to promote the public health, safety, and general welfare of the Town through the establishment of a comprehensive and appropriate system of sign standards and regulations. The sign regulations of this Article are not intended to regulate topics of speech or viewpoints, but instead to regulate the adverse secondary effects of signs. Specifically, this Article is intended to: (1) ensure compatibility with the Town's natural surroundings and buildings by precluding the placement of signs which obstruct adjacent land uses, other signs, or natural views; (2) maintain and improve traffic and pedestrian safety by preventing distractions to pedestrians, bicyclists, and motorists as well as the safety hazards associated with such distractions; and (3) protect, preserve, and enhance the unique aesthetic character of the Town of Atlantic Beach in order to improve the quality of life and attract commerce, business, economic development, residents, and visitors.

### SECTION 5.3.701 Applicability

The sign regulations of this Article shall apply to the erection, installation, rehabilitation, and maintenance of any sign or sign structure that is visible from any public right-of-way or any adjacent lot. Where there is an alleged conflict between the sign standards, the more restrictive provision shall apply.

### SECTION 5.3.702 Viewpoint Neutrality

Notwithstanding anything in this Article to the contrary, no sign or sign structure shall be subject to any regulation or limitation based upon the message displayed. It is the policy of the Town to regulate signs in a content-neutral manner that treats commercial and non-commercial messaging equally and does not regulate protected non-commercial speech by message content, but by location, size, height, number, and materials.

### SECTION 5.3.703 Substitution of Non-Commercial Message

Non-commercial signs shall be allowed in all zoning districts and may be substituted for any sign expressly allowed under this Article. For example, any sign may be changed from a commercial message to a non-commercial message or from one non-commercial message to another non-commercial message at any time; provided, however, that there is no change in the size, height, setback, or spacing criteria contained in this Article. Non-commercial signs shall be subject to the same permit requirements, restrictions on size and type, and other conditions and specifications that apply to the sign for which they are being substituted.

### SECTION 5.3.704 Consent of Legal Owner of Property

Except as required by state law, no sign shall be displayed without the consent of the legal owner of the property on which the sign is mounted or displayed. For purposes of this section, "owner" means the holder of the legal title to the property and any party and person holding a present legal right to possession, control, or use of the property.

### SECTION 5.3.705 Liability for Damages

The provisions of this Chapter or the issuance of any sign permit shall not be construed as relieving responsibility or liability from the person erecting, owning, or maintaining any sign or sign structure from injury or property damage. Further, it shall not be construed as imposing responsibility or liability upon the Town, its officers, or employees by reason of the approval of any sign under the provisions of this Chapter.

## ARTICLE VII. SIGN STANDARDS

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### SECTION 5.3.706 Reserved

### SECTION 5.3.707 Sign Definitions

Except as provided herein, each word or term used in this Chapter has its customary, dictionary definition. For purposes of this Chapter, certain words or terms used by this Chapter are defined below and shall have the meanings ascribed to them.

**Abandoned Sign:** Any sign which: 1. is appurtenant to a use or structure that has been deemed 'abandoned' by the provisions of Article IX; 2. exists in a state of disrepair for a period of sixty (60) days or more as defined by Sections 5.3.726 and 5.3.727; or 3. which fails to display any sign copy for a period of sixty (60) days or more.

**Awning:** Any cloth, plastic, or other non-structural covering that projects from a wall for the purpose of shielding a doorway or window and is either permanently attached to a building or can be raised or retracted to a position against the building when not in use.

**Awning Sign.** Any sign painted, silkscreened, sewn, transferred, or otherwise placed on the awning or covering.

**Banners and Pennants:** Any cloth, bunting, plastic, paper, or similar non-rigid material attached to any structure, staff, pole, rope, wire, or framing which is anchored on two (2) or more edges or at all four (4) corners. Banners are classified as temporary signs and do not include flags.

**Billboard:** A permanent sign and sign structure for the display of off-site commercial messages.

**Changeable Copy Sign:** Any sign that displays copy or a message designed to be changed manually in the field.

**Electronic Message Board:** Any electrical or electronic sign that is internally illuminated and utilizes computer-generated or digitally created messages or some other electronic means of changeable copy. Electronic message boards may include LED or LCD displays and may display multiple messages that fade in, dissolve, or change at set intervals.

**Externally Illuminated Sign:** Any sign which is directly or indirectly lighted by an externally located steady stationary light source, shielded and directed solely at the sign so as not to directly cast light rays into nearby buildings and structures or in the direction of vehicle drivers.

**Facade Sign:** A building-mounted sign which is either attached to, displayed, or painted on an exterior wall in a manner parallel with the wall surface.

**Flag:** Any sign printed or painted on cloth, plastic, canvas, or other similar material with distinctive colors, patterns, or symbols attached to a pole or staff and anchored along only one edge or supported or anchored at only two corners.

**Flagpole:** Any pole or structure designed to raise, wave, or hold a flag.

**Freestanding Sign:** Any sign supported by a sign structure secured in the ground and which is wholly independent of any other support. For the purposes of this Article, freestanding signs are classified as monument or pole signs and may contain other sign types including changeable copy signs or electronic message boards.

**Hanging, Projecting, and Suspended Signs:** Any sign that is attached or affixed to the facade of a building and is not in the same plane as the wall, generally perpendicular, and is double-sided. Signs

## ARTICLE VII. SIGN STANDARDS

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under this definition may include a sign structure from which the sign hangs or is suspended, or from which it is attached to the building. Hanging, projecting, and suspended signs shall not include signs located on an awning, marquee, or canopy.

**Illegal Sign:** Any sign which is erected after the effective date of this Chapter and has not obtained a sign permit or does not conform to the sign standards and regulations of this Chapter.

**Inflatable Sign:** Any sign that is either expanded to its full dimensions or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure. Untethered airships are not considered to be inflatable signs.

**Internally Illuminated Sign:** Any sign which has light transmitted outward through its face or any part thereof.

**Legal Sign:** Any sign which has obtained a permit (if required) and complies with all provisions of this Chapter, and any amendment hereto, or is exempted by this Article.

**Monument Sign:** A freestanding sign that is detached from a building and possesses a support structure that is a solid-appearing base constructed of a permanent material, such as concrete blocks or bricks. Monument signs differ from freestanding pole signs in their design and structure as well as the zoning districts in which they are permitted.

**Nonconforming Sign:** Any sign that legally existed prior to the effective date of this Chapter but no longer conforms to the sign standards and regulations held herein.

**Off-Premise Sign:** Any sign located at any place other than within the same platted parcel of land on which the specific business or activity identified is itself located or conducted.

**Permanent Sign:** Any sign or sign structure that is made of permanent materials such as glass, wood, concrete, or metal, or painted or placed on exterior walls, that precludes ready removal or movement and is intended to be displayed for an extended period of time that is undefined.

**Pole Sign:** A freestanding sign that is detached from a building and is mounted on one or several poles that are anchored into the ground. Pole signs differ from freestanding monuments signs in their design and structure as well as the zoning districts in which they are permitted.

**Roof Sign:** Any sign erected over or on the roof of a building.

**Sign:** Any device, structure, fixture, painting, emblem, or visual that uses words, graphics, colors, illumination, symbols, numbers, or letters for the purpose of communicating a message and, combining all of its elements, form a single unit. This sign definition shall include the sign face(s) as well as any sign structure.

**Sign Area:** The area enclosed by the perimeter of the sign face. The sign area shall be considered as the area of an imaginary rectangle that will enclose the message that the sign is displaying.

**Sign Face:** The part of the sign that is or can be used for the display of any message including any background material, panel, trim, color, or illumination that differentiates the sign from a facade or sign structure.

**Signs in Disrepair:** Any sign or sign structure that is not kept in good repair, restored as necessary, or maintained in a safe condition as provided in this Article.

## ARTICLE VII. SIGN STANDARDS

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**Sign Structure:** Any device, structure, or fixture that is utilized in displaying a sign for the purposes of communicating a message. Sign structures can vary and include poles, monuments, stakes, brackets, canopies, and other devices used to erect a sign.

**Sign Structure Area:** The area within an imaginary rectangle which will encompass the entirety of the sign face plus the structure upon which the sign is erected.

**Temporary Sign:** Any non-permanent sign that is located on private property and is intended to be displayed for no more than thirty (30) consecutive days up to four (4) times per year. Authorized temporary signs shall comply with all other regulations of this Chapter unless expressly exempt.

**Vehicle Sign:** Any sign which is towed behind a vehicle or any sign affixed or attached to a vehicle which extends beyond the profile of the vehicle by more than one (1) inch.

**Visible:** The ability to be seen by a person at any single point from any position at grade extending to a line of sight up to eight (8) feet above grade.

**Window Sign:** Any sign that is applied, painted, or affixed to a window, or placed inside a window, facing the outside of the building, and easily seen from the outside. Customary displays of merchandise or objects and material without lettering behind a store window are not considered signs.

### SECTIONS 5.3.708 through 5.3.719 Reserved

## DIVISION 3. GENERAL SIGN PROVISIONS

### SECTION 5.3.720 Exempted Sign Alterations

Any alteration to an existing sign shall require a new sign permit from the Administrator except for the individual activities provided below:

1. The changing of copy on a permitted changeable copy sign; or
2. The painting or refinishing of the sign face or sign structure of a permitted sign so as to restore its original appearance on the date a permit was obtained.

### SECTION 5.3.721 Signs Exempted from the Requirements of this Chapter

The following signs shall not require a permit from the Administrator or be subject to the regulations of this Chapter:

1. Signs located on property where vehicular access by the general public is restricted and where such signs are not visible from any public right-of-way, beach, or navigable waterway;
2. Any sign designated or required to be posted by a federal, state, or local governmental authority, including any building, fire, and/or safety codes; and
3. Any sign which is visible from the inside of a building only.

### SECTION 5.3.722 Signs Exempted from Obtaining a Sign Permit

The following signs shall not require a permit from the Administrator but shall be subject to the regulations of this Chapter:

## ARTICLE VII. SIGN STANDARDS

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1. Any sign that does not exceed two (2) square feet in area;
2. Any flag or flagpole that meets the requirements of Section 5.3.754;
3. Any window sign that meets the requirements of Section 5.3.759; and
4. Any temporary sign that meets the requirements of Section 5.3.758.

### SECTION 5.3.723 Prohibited Signs

Except as may be hereinafter specifically permitted, it shall be unlawful after the effective date of this Chapter for any person to erect or place within the Town, when visible from a public right-of-way, any of the following signs:

1. Any sign located in a public right-of-way;
2. Any sign or sign structure that is erected or maintained in a manner that obstructs, or may be confused with, any traffic directional/safety sign or obstructs the sight triangle at any street intersection in accordance with the sight provisions of Section 5.3.600;
3. Any sign painted on or attached to trees, other natural features, or utility poles;
4. Any sign that is inflatable or floats;
5. Any sign that is internally illuminated and/or utilizes colored external light sources, except electronic message boards;
6. Any externally or internally illuminated sign that flashes intermittently or involves any animation which could be disruptive to motorists and impose safety/traffic hazards;
7. Any sign which emits a sound, odor, or visible matter such as smoke or vapor;
8. Any sign which give the appearance of movement in any manner, such as unsecured banners or pennants, excluding flags and electronic message boards;
9. Any sign which has been erected without a required permit or for which a permit has been denied or does not meet the requirements of this Chapter;
10. Off-premises signs such as off-site advertising or billboards;
11. Roof signs or any sign, excluding freestanding signs, which extend vertically beyond the profile of any building or structure; and
12. Vehicle signs where stationary for a period of more than two (2) consecutive hours and located within any front yard.

### SECTION 5.3.724 Provisions Applicable to All Signs

In addition to the specific standards by sign type established in this Article, all signs are subject to the following standards:

1. **Building and Electrical Code Standards.** All permanent signs shall meet the latest structural and installation standards of the International Building Codes and the electrical standards of the National Electric Code.

## ARTICLE VII. SIGN STANDARDS

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2. **Design.** Sign shapes shall be composed of standard geometric shapes and shall not include shapes regarding a motif or theme such as bottles, food, animals, etc.
3. **Finish.** Reverse sides of signs shall be properly finished with no exposed electrical wires or protrusions. Signs shall not be finished to have light-reflecting backgrounds, but may use light-reflective lettering.
4. **Illumination.** With the exception of the G, MS2, WF1, WF2, and HWY districts, or where required by the building or fire code, signs are to be non-illuminated. Where permitted, and excluding electronic message boards, illumination shall be provided only by an externally located steady stationary light source, shielded and directed solely at the sign so as not to directly cast light rays into nearby buildings and structures or in the direction of vehicle drivers. Signs forty (40) square feet in area or less are limited to one (1) spotlight or light fixture while signs exceeding forty (40) square feet in area shall be limited to two (2). Illuminance shall not exceed twenty (20) foot-candles at any point on the sign.
5. **High Voltage Power Line.** All signs shall be located in such a way that they maintain horizontal and vertical clearance from all overhead electrical conductors in accordance with the National Electric Code, provided that in no case shall a sign be erected closer than seven and a half (7.5) feet horizontally or vertically from any conductor or public utility guy wire.
6. **Setbacks and Sign Locations.** No sign shall be placed or erected within ten (10) feet of any street or public right-of-way or on any land subject to periodic inundation by water along rivers, the beachfront, or any other watercourse. This provision shall not apply to façade, awning, hanging, projecting, or suspended signs or signs affixed directly to a building.
7. **Visibility.** The area around a sign shall be properly maintained clear of brush, trees, and other obstacles so as to make signs readily visible as well as ensuring aesthetically attractive surroundings.
8. **Sign Movement.** Signs shall not display intermittent lights, contain moving parts, or involve the appearance of movement (see also Section 5.3.723).
9. **Maximum Signage per Lot.** Individual lots shall not exceed the cumulative maximum area of signage for each applicable zoning district, provided by Table 5.3.724(A)(11) below:

# ARTICLE VII. SIGN STANDARDS

Table 5.3.724(A)(11)

Zoning District	Cumulative Maximum Sign Area	Permitted Sign Types (P)*									
		Awning Signs	Changeable Copy Signs	Electronic Message Boards	Facade Signs	Flags & Flagpoles	Hanging, Projecting, and Suspended Signs	Monument Signs	Pole Signs	Temporary Signs	Window Signs
Conservation Preservation (CP)	8 sq. ft.									P	
Residential (R2)	16 sq. ft.				P	P		P		P	P
Main Street 1 Residential (MS1R)	24 sq. ft.				P	P	P	P		P	P
Main Street 1 (MS1)	24 sq. ft.	P	P		P	P	P	P		P	P
Main Street 2 (MS2)	32 sq. ft.	P	P		P	P	P	P		P	P
Government (G)	32 sq. ft.		P	P	P	P	P	P		P	P
Waterfront 1 (WF1)	64 sq. ft. plus an additional 1 sq. ft. for every 1 linear ft. of frontage over 50 ft. (not to exceed 150 total sq. ft.)**	P	P		P	P	P	P		P	P
Waterfront 2 (WF2)	72 sq. ft. plus an additional 1 sq. ft. for every 1 linear ft. of frontage over 50 ft. (not to exceed 175 total sq. ft.)**	P	P		P	P	P	P		P	P
Highway Commercial (HWY)	80 sq. ft. plus an additional 1 sq. ft. for every 1 linear ft. of frontage over 50 ft. (not to exceed 200 total sq. ft.)**	P	P	P	P	P	P	P	P	P	P

\* A "P" in a column's cell indicates that the sign type is permitted subject to the requirements of this Chapter. A blank cell indicates the sign type is not permitted in the district. \*\*The additional square footage of sign area for every linear square foot provided by this Article shall apply to the frontage on which the structure has a primary address. Flags and temporary signage are not counted toward the cumulative maximum sign area provided by this table. The maximum amount of temporary sign area permitted per lot is provided in Table 5.3.758(A)(4).

## SECTION 5.3.725 Legal Signs

Any sign which has obtained a permit (if required) and complies with the provisions of this Article, and any subsequent amendment hereto, is hereby deemed to be a legal sign. Any proposed alteration to or relocation of a legal sign shall require a new permit unless specifically exempted in Section 5.3.720. Any legal sign which does not comply with the provisions of this Article solely due to the enactment of an amendment shall, upon the effective date of such amendment, become a nonconforming sign and be subject to the nonconforming sign provisions of Section 5.3.942.

## **ARTICLE VII. SIGN STANDARDS**

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### **SECTION 5.3.726 Sign Maintenance**

All signs and sign structures shall be kept in good repair, restored as necessary, and maintained in a safe condition including the replacement of missing parts, the reinforcement of anchoring mechanisms, the refinishing of the sign's face when paint peels or fades, and the restoration of any other feature deemed to be in disrepair by the Administrator. Continued maintenance of signs includes securely fastening copy, replacing missing copy, replacing burned out spotlights or bulbs, and maintaining the area around signs by removing any debris, brush, trees, or other obstacles so as to be legible at all times or to be free from rusting, rotting, breaking, or other deterioration of the sign parts.

### **SECTION 5.3.727 Signs in Disrepair**

Any sign that does not meet the sign maintenance provisions of Section 5.3.726 is deemed to be in disrepair. Signs in disrepair shall be repaired, renovated, or removed from the premises within sixty (60) days following notice by the Administrator. If not repaired, renovated, or removed to meet the requirements of this Article within the sixty (60) day period, the sign shall be deemed an abandoned sign and be subject to the provisions of Section 5.3.728.

### **SECTION 5.3.728 Abandoned Signs**

Any sign or sign structure that is appurtenant to a use or structure that has been deemed 'abandoned' by the provisions of Article IX, is in a state of disrepair for a period of sixty (60) days following notice by the Administrator, or fails to display any sign copy for a period of six (6) months shall be deemed abandoned. A sign or sign structure that has been deemed abandoned shall be subject to the enforcement provisions of Section 5.3.729.

### **SECTION 5.3.729 Enforcement; Remedies for Violation**

If a sign is abandoned, no longer being used for the purposes under which the original permit was issued, meets the description of any prohibited sign in Section 5.3.723, or is in violation of this Article, the Administrator shall notify the owner of the violation in writing. If the violation(s) is not corrected within a period of thirty (30) days upon notice by the Administrator, the violation shall be declared a misdemeanor under the laws of the state, and upon conviction thereof, the offender shall be punished at the discretion of the court. Each day such violation continues shall be deemed a separate offense. Nothing in this section shall prevent the Town from pursuing other lawful action to prevent or remedy any violation such as the court-ordered removal of the sign and/or sign structure in violation of this Chapter.

## **DIVISION 3. PERMIT APPLICATION AND APPROVAL**

### **SECTION 5.3.730 Sign Permit Required**

A zoning permit shall be required for the construction, relocation, replacement of, or alteration to any sign within the Town except for those signs and alterations identified in Section 5.3.720, Section 5.3.721, and Section 5.3.722. Any sign that is erected without a permit (where required) or which fails to meet the requirements of this Chapter is an illegal sign and is subject to the enforcement provisions of Section 5.3.729.

### **SECTION 5.3.731 Sign Application and Permit**

A sign permit application containing the following information must be submitted to the Administrator for review prior to the issuance of a zoning permit:

## ARTICLE VII. SIGN STANDARDS

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1. The name, address, telephone number, and signature of the property owner granting permission for the construction, maintenance of, or display of the proposed signage;
2. The approximate value of the sign to be installed, including the installation cost;
3. Two (2) copies of a scaled drawing of the proposed signage showing front and side elevations of the sign;
4. An abbreviated site plan of the property containing all of the items and requirements detailed in Section 5.3.325 drawn to scale illustrating the proposed location of the sign and sign structure;
5. Specifications and scaled drawings showing the size, materials, design, structural supports, and electrical components (including the type and intensity of lighting) of all proposed signs on the premises; and
6. An application fee as prescribed in Section 5.3.302.

### SECTION 5.3.732 Permit Approval and Final Notice of Compliance

- A. Notwithstanding the provisions of Section 5.3.302(E), upon receipt of a zoning permit application for a sign, the Administrator shall have five (5) working days to review the sign application materials to confirm that all required items have been submitted. If incomplete, the Administrator shall inform the applicant in writing within the five (5) day period and the applicant shall have sixty (60) days during which to provide the requested materials and complete the application. Failure to submit the required information within the sixty (60) day period shall void the application.
- B. Complete applications for a sign permit submitted to the Administrator shall be approved, approved with conditions, or denied within ten (10) working days of receipt of the completed application. After a permit has been issued and the sign has been fully constructed, the property owner (or occupant if different) shall notify the Administrator to inspect the sign for compliance with the permit and the requirements of this Chapter. The Administrator shall inspect the sign within five (5) days of receiving notice. Upon successful completion of the sign's inspection, the Administrator shall issue a final Certificate of Zoning Compliance. Should the sign fail to pass inspection, the applicant shall correct any deficiencies within ten (10) days following notice by the Administrator. Failure to correct such deficiencies will result in the revocation of the sign permit and enforcement pursuant to Section 5.3.729.

### SECTIONS 5.3.733 through 5.3.739 Reserved

## DIVISION 4. APPLICATION OF CERTAIN STANDARDS

### SECTION 5.3.740 Determining Number of Signs

In determining the number of signs permitted for individual lots in each zoning district, a sign shall be considered any display surface or device containing multiple elements that together form a single unit, regardless of their arrangement and organization. A sign shall be comprised of components on either side whether it is back-to-back, double-faced, or V-shaped.

## ARTICLE VII. SIGN STANDARDS

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### SECTION 5.3.741 Determining Sign Surface Area

The sign area shall be computed as including the entire area within a parallelogram, triangle, circle or semi-circle containing all of the displayed matter, exclusive of frames, supports, and sign structure. In computing the sign area of back-to-back signs or V-shaped signs, the measurement shall be based on only one side; however, each side must be of equal size. The sign area of signs with three or more sides containing copy, decoration, or any announcement visible from a street shall be measured as the sum of the area of any two adjacent sides.

### SECTION 5.3.742 Determining Sign Height

The height shall be measured as the vertical distance from the average finished grade of the ground below the sign, excluding any filling, mounding, or excavating solely for the purposes of increasing the height of the sign, to the top edge of the sign or sign structure. Average finished grade shall be considered the lower of 1. the lowest elevation where the base of the sign meets ground level; 2. the top of the curb of the nearest public street adjoining the property upon which the sign is erected; or 3. the grade of the land at the principal entrance to the lot on which the sign is located.

### SECTIONS 5.3.743 through 5.3.749 Reserved

## DIVISION 5. SIGN STANDARDS BY SIGN TYPE

### SECTION 5.3.750 Awning Signs

Awning signs are permitted by right in the MS1, MS1R, MS2, G, WF1, WF2, and HWY districts provided they are used in conjunction with a non-residential use. Awning signs shall conform to the following standards and regulations:

1. **Number.** No more than two (2) awning signs shall be permitted provided that they are placed on opposite sides of the valance or canopy.
2. **Location.** Awning signs shall be placed strictly on the valance of the awning or and shall not project below the awning or above the roofline. Additionally, awnings and awning signs shall not extend into any public right-of-way or project closer than two (2) feet of the curb and should be aligned with other awnings and awning signs as much as possible.
3. **Size & Height.** The minimum space between the edge of the letter and the top and bottom of the valance shall be one-and-a-half (1.5) inches and the total area of any awning sign shall not exceed forty (40) percent of the valance area. No portion of any awning sign or canopy structure shall be erected less than eight (8) feet above the level of the sidewalk of the thoroughfare outside of the building or structure.

### SECTION 5.3.751 Changeable Copy Signs

Changeable copy signs are permitted in the MS1, MS2, G, WF1, WF2, and HWY districts. Changeable copy signs are permitted as part of a freestanding pole sign, a freestanding monument sign, a facade sign, or a hanging, projecting, or suspended sign and are subject to the following:

1. **Number.** No more than one (1) changeable copy sign shall be permitted per street frontage per lot.

## ARTICLE VII. SIGN STANDARDS

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2. **Size & Height.** Changeable copy signs shall constitute no more than twenty-five (25) percent of the overall allowable sign area as defined by the applicable sign type. Similarly, the height of any changeable copy sign shall not exceed the height requirements of the applicable sign type.
3. **Location.** Changeable copy signs shall meet the required setback of the sign type that it is a part of and shall not, in any circumstances, project into a public right-of-way.
4. **Copy Requirements.** Changeable copy signs shall contain no more than three (3) lines of copy and copy height shall be eight (8) inches maximum and four (4) inches minimum.

### SECTION 5.3.752 Electronic Message Boards

Electronic message boards are permitted by right in the G and HWY districts. Electronic message boards may be installed as part of a freestanding pole sign, freestanding monument sign, or facade sign and shall be subject to the following:

1. **Number.** No more than one (1) electronic message board shall be permitted per lot.
2. **Size & Height.** Electronic message board signs shall not exceed the allowable sign area as defined by the applicable sign type. Similarly, the height of any electronic message board sign shall not exceed the height requirements of the applicable sign type.
3. **Location.** Electronic message board signs shall meet the required setback of the applicable sign type and shall not, in any circumstances, project into a public right-of-way.
4. **Message Intervals.** All electronic message copy shall not change at intervals less than eight (8) seconds on LED signs that front roads with a speed limit of forty (40) mph or greater and fifteen (15) seconds on roads with a speed limit less than forty (40) mph. For corner lots, the required time interval will be based upon the speed limit of the road which the parcel is addressed.
5. **Luminance.** Electronic message boards shall maintain a constant luminance throughout the duration of the required display time interval. Any electronic message board that is malfunctioning shall either be turned off or display a blank screen.
6. **Transition.** In order to reduce the safety hazards to pedestrians and drivers, the transition from one message to another shall only include effects such as fading in or out, dissolving, and changing at set intervals.

### SECTION 5.3.753 Facade Signs

Facade signs are permitted by right in all zoning districts except for the CP district and shall conform to the following standards and regulations:

1. **Number.** Except for the HWY district, no more than one (1) facade sign shall be placed on any one (1) building or structure except for buildings located on corner lots which shall be permitted two (2) facade signs provided that each sign faces a different street.
2. **Location.** Facade signs shall be contained entirely within any single wall pane. Additionally, facade signs shall not project beyond the roof or the top of the building or structure and shall not project beyond one (1) foot from the facade.
3. **Size & Height.**

## ARTICLE VII. SIGN STANDARDS

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- a. For R2 and MS1R districts, facade signs shall be limited to two (2) square feet in area for residential uses and four (4) square feet for nonresidential uses. Facade signs shall not be placed less than four (4) feet above grade level.
- b. For the G, MS1, and MS2 districts, facade signs shall not occupy more than ten (10) percent of the area of the facade on which they are placed, with the maximum size of any one sign limited to twenty-four (24) square feet. Further, facade signs shall not be placed less than eight (8) feet above grade level.
- c. For WF1, WF2, and HWY districts, facade signs shall not occupy more than ten (10) percent of the area of the facade on which they are placed, with the maximum size of any one sign limited to forty (40) square feet. Developments with less than 2,500 square feet of gross floor area that waive the right to have a freestanding sign shall be permitted to exceed these size limitations by fifty (50) percent. Further, facade signs shall not be placed less than eight (8) feet above grade level.

### SECTION 5.3.754 Flags and Flagpoles

Flags and Flagpoles are permitted by right in all zoning districts except for the CP district. No flag shall exceed fifteen (15) square feet in area. Flags greater than one (1) square foot in area are limited to no more than three (3) flags on any lot. Similarly, flagpoles shall be exempt from obtaining a sign permit provided that all height requirements are followed for the respective zoning district. If erected on top of or affixed to a building or structure, the height of the flagpole shall be added to the cumulative height of the structure and shall not exceed the maximum height allowed for the zoning district.

### SECTION 5.3.755 Freestanding Signs: Monument Signs

Monument signs are a sub-classification of freestanding signs and are permitted by right in the MS1, MS2, G, WF1, WF2, and HWY districts and are permitted for non-single family dwelling uses in the R2 and MS1R districts. Monument signs shall conform to the following standards and regulations:

1. **Number.** One (1) monument sign shall be permitted per lot, provided that there is at least fifty (50) feet of street frontage. One (1) additional freestanding monument sign shall be permitted for any parcel or lot with street frontage greater or equal to two-hundred fifty (250) feet.
2. **Size & Height.**
  - a. For the R2 and MS1R districts, the maximum height of any monument sign shall not exceed eight (8) feet and the maximum area of the sign face shall not exceed sixteen (16) square feet.
  - b. For the G, MS1, and MS2 districts, the maximum height of any monument sign shall not exceed eight (8) feet and the maximum area of the sign face shall not exceed twenty-four (24) square feet.
  - c. For the WF1, WF2, and HWY districts, the maximum height of any monument sign shall not exceed twelve (12) feet and the maximum area of the sign shall not exceed sixty (60) square feet.

### SECTION 5.3.756 Freestanding Signs: Pole Signs

Pole signs are a sub-classification of freestanding signs and are solely permitted in the HWY district. Pole signs shall conform to the following standards and regulations:

## ARTICLE VII. SIGN STANDARDS

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1. **Number.** One (1) pole sign shall be permitted per lot, provided that there is at least one-hundred (100) feet of street frontage. One (1) additional freestanding pole sign shall be permitted for any parcel or lot with street frontage greater or equal to two-hundred fifty (250) feet. Pole signs shall contain no more than two (2) sign faces.
2. **Size & Height.** The maximum height of any pole sign in the HWY district shall not exceed twenty (20) feet and the maximum area of the sign face shall not exceed sixty (60) square feet.

### SECTION 5.3.757 Hanging, Projecting, and Suspended Signs

Hanging, projecting, and suspended signs are permitted by right in the MS1, MS2, G, WF1, WF2, and HWY districts and in the MS1R district provided they are used in conjunction with a non-residential use. Hanging, projecting, and suspended signs shall conform to the following standards and regulations:

1. **Number.** No more than one (1) hanging, projecting, or suspended sign shall be placed on any one (1) building or structure except for buildings located on corner lots which shall be permitted two (2) hanging, projecting, or suspended signs provided that each sign faces a different street.
2. **Location.** Hanging, projecting, and suspended signs shall be affixed strictly at a ninety (90) degree angle to the facade and shall not project into any public right-of-way nor further than five (5) feet from the face of the building.
3. **Size & Height.** Hanging, projecting, and suspended signs shall be limited to eight (8) square feet in area shall not be placed less than eight (8) feet above grade level.

### SECTION 5.3.758 Temporary Signs

Temporary signs are permitted in all zoning districts and shall conform to the following standards and regulations:

1. **Number.** No more than four (4) temporary signs shall be placed on any single parcel or lot.
2. **Location.** Temporary signs shall be required to be set back at least ten (10) feet from any property line. Further, temporary signs shall be installed so that they do not create any traffic or safety hazard to motorists and shall not be placed in a sight triangle.
3. **Size & Height.** Temporary signs in the CP, R2, and MS1R districts shall be limited to four (4) feet in height and four (4) square feet in area. For all other zoning districts, temporary signs shall be limited to six (6) feet in height and eight (8) square feet in area for street frontages of less than one-hundred (100) feet, or six (6) feet in height and sixteen (16) square feet in area for street frontages one-hundred (100) feet or greater. These size and height requirements pertain to individual temporary signs; however, the total of all temporary signs on a lot shall not exceed the maximum temporary sign area requirements of Table 5.3.758(A)(4).
4. **Cumulative Maximum Temporary Sign Area.** Temporary sign area shall not contribute to the cumulative maximum sign area detailed in Table 5.3.724(A)(11). Instead, cumulative maximum temporary sign area shall be in accordance with Table 5.3.758(A)(4) below:

## ARTICLE VII. SIGN STANDARDS

Table 5.3.758(A)(4)	
Zoning District	Cumulative Maximum Temporary Sign Area
Conservation Preservation (CP)	8 sq. ft.
Residential (R2)	16 sq. ft.
Main Street 1 Residential (MS1R)	16 sq. ft.
Main Street 1 (MS1)	16 sq. ft.
Main Street 2 (MS2)	16 sq. ft.
Government (G)	16 sq. ft.
Waterfront 1 (WF1)	24 sq. ft. for lots with street frontages of less than 100 feet and 32 sq. ft. for street frontages of 100 feet or greater.
Waterfront 2 (WF2)	24 sq. ft. for lots with street frontages of less than 100 feet and 32 sq. ft. for street frontages of 100 feet or greater.
Highway Commercial (HWY)	24 sq. ft. for lots with street frontages of less than 100 feet and 32 sq. ft. for street frontages of 100 feet or greater.

5. **Duration and Removal.** Temporary signage in all zoning districts shall be displayed no more than thirty (30) consecutive days up to four (4) times a year.

### SECTION 5.3.759 Window Signs

Window signs are permitted in all zoning districts but may only be placed in the R2 and MS1R districts in conjunction with non-residential uses. Window signs shall conform to the following standards and regulations:

1. **Number.** There is no limit to the allowable number of window signs; however, window signs shall not cover more than twenty-five (25) percent of the area of any window.
2. **Location.** Window signs may be placed anywhere on any given window pane provided the sign is painted, decaled, or laminated flush to the pane or the sign is on the interior side of the window.

### SECTIONS 5.3.760 through 5.3.799 Reserved

## ARTICLE VII. SIGN STANDARDS

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## ARTICLE VIII. SHORELINE PROTECTION

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### SECTION 5.3.800 Purpose

It shall be the purpose of this Article to protect public and private coastal property in the Town of Atlantic Beach from any damage as a result of erosion, flooding, hurricanes, etc. It is the further intent of this Article to allow the reasonable use of coastal property while promoting the health and safety of the public, providing economic revenue through tourism, and offering a habitat for vegetation and animals by protecting the natural beach and dune system from alterations or development that may negatively affect its ability to provide a buffer from wind and wave action.

The State of South Carolina has promulgated regulations, as administered through the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management (SCDHEC-OCRM), that restrict and/or require permitting for certain activities along the beachfront. This Article is designed to complement and, in some instances, provide protections in addition to those afforded in the state regulations. It is intended that in the event a provision of this Article is found to be inconsistent with those of the state, the more restrictive provision shall prevail, to the extent allowed by law.

### SECTION 5.3.801 Shore Protection Line and Area

On all lots contiguous to the Atlantic Ocean, the shore protection line shall be determined to be the line twenty (20) linear feet landward of the property line nearest the Atlantic Ocean or twenty (20) linear feet landward of the crest of the primary ocean front sand dune, whichever line is further from the Atlantic Ocean. The area between the shore protection line and the Atlantic Ocean shall be determined to be the shore protection area. For lots contiguous to the Atlantic Ocean which do not have a primary ocean front sand dune, the owner shall be required by the Town to construct a continuous, identifiable primary ocean front sand dune which is similar in height and width, and in line with, adjacent primary ocean front sand dunes. Upon completion of the primary ocean front sand dune, a shore protection line shall be determined and owners shall be encouraged to vegetate the dune with native plants including those identified in the Natural Resources Element of the Town's Comprehensive Plan.

### SECTION 5.3.802 Permitted Structures

Structures permitted in the shoreline protection area, after having received a permit, are as follows:

1. *Dune Crossings and Walkways.* Dune crossings shall be permitted on all lots contiguous to the Atlantic Ocean. Dune crossings shall be constructed on pilings and of wood planking elevated not less than two (2) feet above the surface of the sand dune. The width of the walkway shall not be greater than four (4) feet wide and shall leave at least three-quarters (3/4) of an inch between each board to permit the passage of sand, wind, and water. Dune crossings shall not be covered and may not be enclosed on any side with the exception of a safety rail. Dune crossings may be connected to a building or structure on a lot contiguous to the Atlantic Ocean by means of an elevated walkway. Elevated walkways shall only be permitted as a means of access between a building or structure and a dune crossing. Elevated walkways shall meet the same design requirements of dune crossings.
2. *Sand Fences.* Sand fencing is utilized to protect the natural development cycle of primary ocean front sand dunes and is required on both the landward and seaward sides of the dune. The seaward row of fencing shall be placed and maintained by the Town while the landward row of fencing shall be a continuous row placed along the shore protection line by the property owner, unless otherwise authorized by the Town in a more seaward location. The landward row of fencing, however, shall not be placed farther seaward than the landward trough of the primary ocean front sand dune.
3. *Vegetation.* Property owners along the ocean front shall be encouraged to plant and maintain native grasses, shrubs, and ground covers in the shore protection area. Vegetation to be planted on the

## ARTICLE VIII. SHORELINE PROTECTION

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landward and seaward sides of the primary ocean front dune shall be selected and maintained in accordance with existing native vegetation in the Town and the Natural Resources Element of the Atlantic Beach Comprehensive Plan. The property may be allowed to plant non-native vegetation between the landward trough of the primary sand dune and the shore protection line; however, only native plant species shall be planted seaward of the landward trough of the primary ocean front sand dune.

4. *Emergency Temporary Erosion Control.* In emergency situations where excessive erosion has taken place, temporary erosion control measures, such as sandbagging, sand scraping, and beach nourishment activities may be authorized by the Town or SCDHEC-OCRM through the Emergency Order process for the protection of property along the ocean front if erosion reaches to within twenty (20) feet of a structure. Only temporary measures which do not adversely affect the long-term development of the natural dune system shall be permitted by this Article. In the case that owners of real property do not implement appropriate temporary erosion control measures, the Town may enact whatever measures and methods it deems necessary to prevent damage to real property and assess the property owner for the expense of such action. Permanent erosion control measures such as seawalls, revetments, and bulkheads shall be prohibited.
5. *Other Permitted Uses and Structures.* Other structures, such as lifeguard chairs, light poles, bike racks, trash receptacles, and other services necessary to promote the health and safety of residents and the environment shall be permitted provided they do not reduce the effectiveness nor alter natural sand dunes and vegetation.

### SECTION 5.3.803 Construction along the Ocean Front

A shore protection line and SCDHEC-OCRM setback line must be determined prior to construction on any lot contiguous to the Atlantic Ocean. All construction shall comply with the regulations as promulgated by SCDHEC-OCRM and the Administrator shall require such compliance prior to the issuance of a permit. Further, property owners, developers, and contractors shall be required, prior to construction, to construct a fence or barrier no less than three (3) feet in height along the shore protection line for the entire width of the property, thereby identifying the shore protection area. Any development, including the construction of seawalls, bulkheads, revetments, and similar structures which impair or inhibit the development and continuation of the natural dune system are prohibited in the shore protection area and within the SCDHEC-OCRM setback area.

### SECTION 5.3.804 Criteria for Permit and Development Approval

No permit shall be issued pursuant to this Article without a determination by the Administrator, based upon an inspection of the area, that such proposed construction, alteration, or disturbance will not create, nor increase, a danger or hazard to life or property. Further, no permit shall be granted if the proposed construction, alteration, or disturbance:

1. Will result in the removal or diminution of the amount of sand, silt, shell, sediment, or other geologic components of any beach or interfere with natural patterns of wind and water movement of sand, silt, shell, sediment, or other beach components, except for maintenance of any structures causing these effects which were existing prior to the enactment of this Chapter;
2. Will result in the direct discharge of stormwater onto any beach;
3. Will result in the discharge of treated or untreated sewage, or other human waste, from land or waterborne sources, with the exception of advanced treated effluent irrigation systems approved by SCDHEC;

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4. Will result in the direct or indirect removal, destruction, depletion, or digging out of vegetation which contributes to beach stability;
5. Will result in interference with the natural use of the beach for feeding, foraging, resting, nesting, and breeding by indigenous and migratory birds, shellfish, marine fishes, sea turtles, and other wildlife. Such interference shall include the destruction or diminution of organisms or material upon which wildlife feed;
6. Will interfere with the customary rights of the public for access to, and use of, the beach; or
7. Will remove, alter, or destroy any existing beach protection structure unless authorized by an appropriate development plan approval or building permit.

Additionally, prior to the granting of any permit required by this Article, the applicant shall provide to the Administrator either proof of permitting by SCDHEC-OCRM or a written determination from SCDHEC-OCRM stating that the proposed construction, alteration, or disturbance does not fall under their jurisdiction and therefore does not require a permit.

### **SECTION 5.3.805 Sand Dune and Vegetation Protection Standards**

It shall be unlawful for any person, firm, corporation, or private authority to damage, destroy, remove, alter, or relocate in any manner sand, sand dunes, or vegetation lying seaward of the shore protection line or to alter, interfere with, or perform any act which tends to lessen the protection afforded by the sand, beach, dunes, dune line, or vegetation without first having obtained a permit from the Administrator in accordance with this Chapter.

Development on dunes shall be prohibited, except as provided in this Article, and where significant dune erosion or removal has taken place, the restoration or stabilization of existing dunes and the creation of new dunes compatible with natural beach profiles may be required for new developments and redeveloped properties. Further, if the removal of vegetation seaward of the landward trough of the primary ocean front sand dune cannot be avoided, replacement vegetation must be planted.

### **SECTION 5.3.806 Beach Access Standards**

Access to the beach shall only be provided by dune crossings and elevated walkways pursuant to Section 5.3.802. In no case shall direct vehicular access to beach areas be permitted, with the exception of emergency vehicles or unless otherwise authorized by the Town. As beach access is vital to the public, as well as prospects for future economic development, the Administrator shall periodically consider the need for beach access and, in the determination that purchase of access by the Town is necessary, may recommend such action to Town Council. Development on any property contiguous to the Atlantic Ocean which would cause the net loss of any existing designated beach access shall be prohibited.

### **SECTION 5.3.807 Beach Nourishment and Erosion Control Standards**

In emergency situations where erosion has reached to within twenty (20) feet of threatened property contiguous to the Atlantic Ocean and requires protection from damage, only temporary erosion control measures and strategies may be utilized pursuant to Section 5.3.802 and shall adhere to the following provisions:

1. Fill materials shall come only from SCDHEC-OCRM approved areas and utilize acceptable methods as regulated by the appropriate state and federal agencies. Fill materials shall be of similar sediment size and material as the existing material;

## ARTICLE VIII. SHORELINE PROTECTION

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2. Use of natural features of the beach and dune system shall be favored over artificial structures (ex. trapping sand by use of sand fencing; planting dune vegetation on small dunes to encourage growth);
3. Temporary erosion control measures, such as sandbags, shall not be approved except when erosion imminently threatens permanent primary structures, such as habitable buildings along the ocean front;
4. Temporary erosion control measures, such as sandbags, shall not interfere with existing or planned public access to the beach unless equivalent, alternate access can be provided; and
5. Beach nourishment and temporary erosion control measures shall be conducted at times of the year when impact on wildlife, particularly endangered species, is minimized. Further, the appropriate state and federal permits shall be secured before Administrator approval is granted.

### SECTION 5.3.808 Nonconforming Structures

Any structure, building, or use in existence seaward of the shore protection line or within shore protection area permitted on or before the effective date of this Article is deemed a legal nonconforming use and/or structure and shall be subject to the provisions of Article IX. Notwithstanding the provisions of Section 5.3.934, however, the following provisions shall apply for buildings, structures, and uses located seaward beyond the shore protection line:

1. The repair or renovation of any building, structure, or use located in whole or partially seaward of the shore protection line that has been damaged, but not destroyed beyond repair, may be restored provided that a permit is granted by the Administrator and that the restorations do not increase the area of land greater than the area of land occupied by the previous building, structure, or use or extend any further into the shore protection area as was previously constructed.

Notwithstanding the provisions of Articles I and IX, for this section damaged beyond repair shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition, immediately prior to damage, would exceed sixty six and two-thirds ( $66 \frac{2}{3}$ ) percent of replacement value.

2. The repair or renovation of any habitable building or structure, including pools, located in whole or partially seaward of the shore protection line that has been destroyed beyond repair, due to natural or man-made causes, may be replaced or rebuilt provided that a permit is granted by the Administrator and that:
  - a. The total square footage of the replacement structure seaward of the shore protection line does not exceed the total square footage of the original structure seaward of the shore protection line;
  - b. The linear footage of the replaced structure parallel to the coast does not exceed the original linear footage parallel to the coast;
  - c. The replaced structure is no farther seaward than the original structure; and
  - d. When possible, the replaced structure is moved landward of the shore protection line or if not possible, then as far landward as practicable, considering compliance with the other terms of this Chapter.

## **ARTICLE VIII. SHORELINE PROTECTION**

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3. The repair or renovation of any other building, structure, or use located in whole or partially seaward of the shore protection line that has been destroyed beyond repair, not described in this section, shall be prohibited and the owner shall remove any portions of the damaged building, structure, or use within ninety (90) days of the date of damage or destruction.

**SECTIONS 5.3.809 through 5.3.899 Reserved**

## **ARTICLE VIII. SHORELINE PROTECTION**

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# ARTICLE IX. NONCONFORMITIES

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## DIVISION 1. GENERAL PROVISIONS

### SECTION 5.3.900 Purpose and Intent

The zoning regulations and development standards established by this Chapter are designed to guide the future use of land within the Town of Atlantic Beach by encouraging controlled site development and appropriate groupings of compatible and related uses, thereby promoting and protecting the public health, safety, and general welfare of the Town. The continued existence of nonconformities is frequently inconsistent with the purposes of currently established regulations, and can adversely affect orderly development and the value of property. Thus, the gradual elimination of as many nonconformities as possible is generally desirable. This Article establishes regulations governing nonconformities that lawfully existed but no longer comply with one (1) or more of the requirements of this Chapter.

### SECTION 5.3.901 Continuance and Loss of Legal Nonconforming Status

Any use, structure, lot, feature, or sign that lawfully existed prior to the adoption of, or that became nonconforming following the adoption of any amendment to, this Chapter is a legal nonconformity and may continue in accordance with the provisions of this Article.

Legal nonconforming status shall be forfeited when:

1. A nonconforming use is abandoned, replaced by a conforming use, voluntarily demolished, destroyed beyond repair, or, when permitted, not restored following damage within the time limitations provided herein;
2. A nonconforming structure is abandoned, relocated, voluntarily demolished, destroyed beyond repair, or, when permitted, not restored following damage within the time limitations provided herein;
3. A nonconforming lot is combined with an existing lot, or portion thereof, resulting in the consolidated lot meeting all area, lot width, and frontage requirements of this Chapter;
4. A nonconforming feature is voluntarily demolished, destroyed beyond repair, is not restored within the time limitations provided herein, or when the use or structure to which the feature is appurtenant to is determined to be abandoned or has lost its legal nonconforming status; or
5. A nonconforming sign is voluntarily demolished, destroyed beyond repair, not restored within the time limitations provided herein, not maintained in good condition or working order as required by Sections 5.3.726 and 5.3.727, or when the sign itself, or the use or structure to which the sign is appurtenant to, is determined to be abandoned or has lost its legal nonconforming status.

### SECTION 5.3.902 Repairs and Maintenance

Repairs and normal maintenance required to keep nonconforming uses, structures, features, or signs in a safe condition are permitted, provided that no alterations may be made except those allowed by this Chapter or required by law or ordinance. This Article shall not be construed as to prevent structures from being strengthened or restored to a safe condition in compliance with the order of the building inspector or Administrator.

### SECTION 5.3.903 Substantial Improvement

Substantial improvements shall include any repair, reconstruction, rehabilitation, addition, or other improvement to a nonconforming use, structure, feature, or sign the cumulative cost of which in any five

## **ARTICLE IX. NONCONFORMITIES**

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(5) year period equals or exceeds fifty (50) percent of the use, structure, feature, or sign's appraised market value, as determined by one (1) of the methods detailed in Section 5.3.908. Substantial improvements shall be prohibited for all nonconforming uses, structures, features, and signs unless otherwise stated herein.

If restoration, rehabilitation, or reconstruction is delayed through litigation or another cause deemed by the Administrator to be beyond the control of the owner, the time of such delay shall not be considered when computing the respective time period provided for such restoration. If restoration is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be aggregated to determine whether a substantial improvement will occur.

### **SECTION 5.3.904 Flood Damage Prevention & Shoreline Protection Provisions Unaffected**

The provisions of this Article shall not eliminate nor supersede any requirements imposed by the Shoreline Protection provisions of Article VIII nor the Flood Damage Prevention Ordinance (see Appendix D).

### **SECTION 5.3.905 Combination of Nonconformity Types**

Where a combination of nonconformity types (uses, structures, lots, features, and signs) exist, such as a nonconforming structure containing a nonconforming use, and there is an alleged conflict between the standards applicable to each type, the more restrictive provision shall prevail.

### **SECTION 5.3.906 Burden of Proof**

The burden of establishing that any nonconformity is a legal nonconformity shall in all cases be upon the owner of such nonconformity and not the Town or any other person.

### **SECTION 5.3.907 Permit Required**

Prior to any repair, maintenance, renovation, demolition, restoration, or structural alteration to a nonconformity, the owner shall obtain a zoning permit from the Administrator. The Administrator shall require the owner to document the status and extent of any nonconformity and provide information regarding the scope and nature of any proposed alteration to ensure compliance with the requirements of this Article.

### **SECTION 5.3.908 Appraisals of Market Value and Damages**

Any appraisal of market value, as required by Sections 5.3.924 and 5.3.934 or any other section of this Article, shall be determined by one of the following methods:

1. The current assessed building value as determined by the Horry County Assessor's Office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past six (6) months;
2. One (1) or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, less the cost of site improvements and depreciation for functionality and obsolescence; or
3. Real estate purchase contract within six (6) months prior to the date of the application for a permit.

Further, all appraisals of market value shall be submitted to the Administrator at the owner's expense and may be challenged on the basis of the Town's own appraisal within thirty (30) days of the initial submittal.

## ARTICLE IX. NONCONFORMITIES

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Appeals of the Administrator's decision can be made to the Board of Zoning Appeals pursuant to the appeals provisions of Section 5.3.330.

### SECTIONS 5.3.909 through 5.3.919 Reserved

## Division 2. NONCONFORMING USES

### SECTION 5.3.920 Change in Use

A nonconforming use may not be changed to any other use unless the proposed use is permitted in the zoning district in which the use is currently located.

### SECTION 5.3.921 Relocation of Use

A nonconforming use shall not be moved, in whole or in part, to any other portion of such parcel nor to another lot unless the use will be brought into conformance with the regulations of the zoning district in which it is being moved to.

### SECTION 5.3.922 Abandonment, or Discontinuance, of Use

Once a nonconforming use, which lawfully existed on the effective date of this Chapter, is abandoned or replaced by another use, the use's legal nonconforming status shall be forfeited and the re-establishment of a nonconforming use shall be prohibited, except as provided herein. Any subsequent use of the property shall comply with the regulations of the zoning district in which it is located, unless otherwise stated within this Chapter.

The abandonment of a nonconforming use and any appurtenant building(s) or structure(s) shall be deemed to have occurred upon any one (1) or more of the following for more than 180 consecutive days:

1. The cessation of production or processes for which the nonconforming use was intended;
2. The vacating of the premises, excluding residential uses;
3. Failure to secure or maintain licenses, permits, or regulatory approvals necessary for operation;
4. Disconnecting utility services serving the nonconforming use such as water, gas, or electric;
5. Removal of buildings, equipment, or fixtures which are required for the operation of the nonconforming use; or
6. Any structure containing a nonconforming use that has fallen into disrepair and has been deemed unfit for occupancy by the building official, fire marshal, or other competent authority.

### SECTION 5.3.923 Expansion Prohibited

A nonconforming use shall not be enlarged, expanded, or structurally altered to occupy a greater area of land or floor area than was occupied on the effective date of this Chapter unless:

1. The expansion or alteration eliminates or reduces the nonconformity; or
2. The expansion is into part of the existing building or structure that was lawfully designed for such use, provided that no expansion shall be allowed if it displaces an already existing, conforming use.

## **ARTICLE IX. NONCONFORMITIES**

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### **SECTION 5.3.924 Damage or Destruction; Replacement of Structural Components**

A nonconforming use shall not be restored, replaced, or re-established after being damaged or destroyed beyond repair nor shall any structural component be replaced except as provided below:

1. Any nonconforming, nonresidential use that has been damaged to the extent of less than fifty (50) percent of its appraised market value, immediately prior to the damage, may obtain a building permit to rebuild, restore, or repair the nonconforming, nonresidential use provided that restoration begins within twelve (12) months and is completed within twenty-four (24) months of the date of damage. The restoration, rehabilitation, and repair of any nonconforming, nonresidential use that has been damaged to the extent of fifty (50) percent or more of its appraised market value, immediately prior to the damage, would constitute a substantial improvement and is hereafter prohibited;
2. Any nonconforming, residential use that has been damaged in any capacity may be restored provided that restoration begins within twelve (12) months and is completed within twenty-four (24) months of the date of damage. The failure to complete the restoration within the allotted time frame will result in the loss of the use's legal nonconforming status. Voluntary demolition does not constitute damage that allows for restoration or replacement of components; and
3. The building inspector or Administrator may authorize the restoration of individual structural, and/or nonstructural, exterior components (deck, stairs, railings, etc.) of any nonconforming use upon the determination that such elements are defective, create unsafe conditions, and are in need of replacement.

### **SECTION 5.3.925 Accessory Uses and Structures**

No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated unless such accessory use conforms to the provisions of this Chapter. No accessory use or structure shall hereafter be established on the site of a nonconforming use.

### **SECTIONS 5.3.926 through 5.3.929 Reserved**

## **DIVISION 3. NONCONFORMING STRUCTURES**

### **SECTION 5.3.930 Use**

A nonconforming structure may be occupied by any use permitted in the underlying zoning district or by any legally established nonconforming use.

### **SECTION 5.3.931 Relocation**

A nonconforming structure may be relocated, in whole or in part, to another location on the same lot provided that the relocation does not increase the extent of the nonconformity.

### **SECTION 5.3.932 Abandonment, or Discontinuance, of Structure**

Once a nonconforming structure, which lawfully existed on the effective date of this Chapter, has been abandoned for 180 consecutive days, the structure's legal nonconforming status shall be forfeited and the structure shall not be re-occupied until all nonconformities are brought into full conformance with this Chapter.

## ARTICLE IX. NONCONFORMITIES

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The determination of a nonconforming building or structure's abandonment shall be made upon any one or more of the following determinations for more than 180 consecutive days:

1. Utility services serving the nonconforming structure such as water, gas, or electric have been disconnected; or
2. The nonconforming structure has fallen into disrepair and has been deemed unfit for occupancy by the building official, fire marshal, or other competent authority.

### **SECTION 5.3.933 Expansion Prohibited**

A nonconforming structure shall not be expanded, enlarged, or renovated in any way that increases the extent of the nonconformity; however, a nonconforming structure may be structurally altered in compliance with the order of the building inspector or Administrator, provided that the expansion or alteration meets all required setback, height restrictions, size and area limitations, and all other requirements established in this Chapter.

### **SECTION 5.3.934 Damage or Destruction; Replacement of Structural Components**

A nonconforming structure shall not be restored, replaced, or re-established after being damaged or destroyed beyond repair nor shall any structural component be replaced except as provided below:

1. Any nonconforming structure that has been damaged to the extent of less than fifty (50) percent of its appraised market value, immediately prior to damage, may obtain a building permit to rebuild, restore, or repair the nonconforming structure provided that restoration begins within twelve (12) months and is completed within twenty-four (24) months of the date of damage;
2. The restoration, rehabilitation, and repair of any nonconforming structure that has been damaged to the extent of fifty (50) percent or more of its appraised market value, immediately prior to the damage, would constitute a substantial improvement and is hereafter prohibited; and
3. For nonconforming structures on lots that are contiguous to the Atlantic Ocean, additional nonconforming provisions specific to the Town's shore protection area are detailed in Section 5.3.808.

### **SECTIONS 5.3.935 through 5.3.939 Reserved**

## **DIVISION 4. OTHER NONCONFORMITIES**

### **SECTION 5.3.940 Nonconforming Lots**

A nonconforming lot(s) may be built upon and/or occupied by a use permitted in the respective zoning district or by a legally established nonconforming use or structure provided that the lot is not reduced in size except as provided below:

1. Nonconforming lots, with regard to minimum lot sizes and dimensional requirements, may be combined, in whole or in part, for the purpose of sale or development as long as the extent of the nonconformity is not increased and the resultant lot does not create a larger number of nonconforming lots. The combination of nonconforming lots in order to create a conforming lot is permitted provided that it complies with the requirements of this Chapter; and

## ARTICLE IX. NONCONFORMITIES

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2. Nonconforming lots, which may or may not contain a nonconforming structure or use, may be subdivided provided that subdivision does not create any additional nonconformities or increase the extent of the existing nonconformity.

### SECTION 5.3.941 Nonconforming Site Features

Nonconforming features may include deficiencies in fence height or locations, buffers, screening, landscaping, off-street parking, illumination, impervious area, or similar site appurtenances not involving the structural aspects, location, or use of the structure. The expansion or restoration of nonconforming features are prohibited except as provided below:

1. The abandonment or loss of legal nonconforming status by the appurtenant use or structure shall thereafter require the feature to be brought into full conformance with the requirements of this Chapter; and
2. Any change of use, new construction, expansion, feature replacement, or the issuance of a zoning permit affecting the nonconforming feature will thereupon require full conformance with the requirements of this Chapter.

### SECTION 5.3.942 Nonconforming Signs

A nonconforming sign or sign structure shall not be restored, replaced, or re-established after being damaged or destroyed beyond repair except as provided below:

1. Painting, repair, and refinishing of the nonconforming sign face or sign structure is permitted in order to properly maintain the good condition and working order of the sign as required by Section 5.3.726;
2. Any nonconforming sign that has been damaged to the extent of less than fifty (50) percent of its appraised market value, immediately prior to damage, may obtain a permit to rebuild, restore, or repair the nonconforming sign provided that restoration is completed within 180 days;
3. Any nonconforming sign that has been damaged to the extent of fifty (50) percent or more of its appraised value, immediately prior to damage, would constitute a substantial improvement. Rebuilding, restoring, or repairing the nonconforming sign is hereafter prohibited except in full conformance with this Chapter; and
4. Alteration to a nonconforming sign that reduce the degree of nonconformity by twenty-five (25) percent or more is permitted. All other alterations to a nonconforming sign that does not meet the requirements of this Chapter shall result in the loss of legal nonconforming status and be subject to the enforcement provisions of Section 5.3.729.

### SECTION 5.3.943 Nonconformities Created by Public Action

- A. Lot Area and Setbacks.** When lot area or setbacks of any conforming lot or structure are reduced as a result of a taking by a federal, state, or local government for a public purpose, and the remaining area is at least seventy-five (75) percent of the minimum standard for the district in which it is located, then that lot shall be deemed to be in compliance with the minimum lot size and setback standards of this Chapter.
- B. Off-Street Parking and Buffers.** When off-street parking or buffers of any conforming structure are reduced below the minimum required by this Chapter as a result of a taking by a federal, state, or local government for a public purpose, the owner of such property shall be required to replace,

## ARTICLE IX. NONCONFORMITIES

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to the maximum extent deemed practicable by the Administrator, the reduced off-street parking or buffers. Such replacement shall occur no more than ninety (90) days after construction activity that reduces the available off-street parking or buffers.

- C. Sites with Prior Nonconformities.** Sites that are nonconforming at the time of a taking by a federal, state, or local government for a public purpose shall meet all nonconformity provisions of this Article and are not subject to the provisions of subsections A and B of this section.

**SECTIONS 5.3.944 through 5.3.999 Reserved**

## ARTICLE IX. NONCONFORMITIES

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# ARTICLE X. LAND DEVELOPMENT STANDARDS

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## DIVISION 1. GENERAL PROVISIONS

### SECTION 5.3.1000 Authority

The Land Development Regulations of this Article are adopted pursuant to the authority granted under Chapter 6, Chapter 29, Article 7 of the South Carolina Code of Laws.

### SECTION 5.3.1001 Purpose

A well designed development means little to prospective lot buyers, tenants, and/or users until raw land is physically transformed into lots or building sites and all necessary improvements are provided. In order for new subdivision and developments to be a community asset rather than a liability, the developer shall install and/or pay for improvements required by these regulations. It is the purpose of this Article to establish standards for the creation and design of lots and the installation of improvements within subdivisions and other land developments.

The design and improvement standards contained herein are considered the minimum standards. The Planning Commission or Administrator may require improvements or design elements in addition to those outlined herein where deemed necessary to ensure compliance with this Chapter or to ensure compliance with other code provisions applicable to a development.

### SECTION 5.3.1002 Intent and Compatibility with Other Ordinance Provisions

The Atlantic Beach Town Council has determined that it is in the best interest of the Town to adopt a unified ordinance to include both zoning and land development regulations. It is recognized that the State Code distinguishes the adoption, amendment, administration, and appeals procedures of zoning from those of the land development regulations. Where this distinction exists, either as provided in the State Code or as set out more specifically herein, this Article, inclusive of the administrative procedures contained in Article III, sections 5.3.350 to 5.3.358, is to be considered separate and distinct from the zoning provisions of this Chapter.

### SECTION 5.3.1003 Applicability

The land development standards of this Article shall apply to all lands within the Town of Atlantic Beach and, to the extent provided by law, regulate the following activities:

1. All subdivisions of land;
2. The form and content of all plats, plans, and similar instruments to be recorded (See Article III);
3. The creation of new streets and their dedication to public use;
4. The placement of utilities, including but not limited to water, sewer, electrical, telephone, natural gas, and cable television;
5. The control of stormwater runoff;
6. The posting of surety to guarantee required improvements;
7. The naming and renaming of streets; and
8. All other changes to land characteristics as specified herein.

# ARTICLE X. LAND DEVELOPMENT STANDARDS

## SECTION 5.3.1004 Conformance with Applicable Rules and Minimum Standards

- A. In addition to the regulations set forth herein, all subdivisions and land developments including the design, construction, and/or dedication of improvements shall comply with the following laws, rules, and regulations:
1. All applicable federal laws including the administrative regulations promulgated by federal departments and agencies;
  2. All applicable provisions contained in the South Carolina Code of Laws or South Carolina Code of Regulations;
  3. All jurisdictional ordinances;
  4. The requirements of the Horry County Health Department and the South Carolina Department of Health and Environmental Control (SCDHEC);
  5. The rules of the South Carolina Department of Transportation (SCDOT) if the subdivision or development abuts a state highway or connecting street; and
  6. The standards and regulations promulgated by all applicable commissions, boards, municipal officials, and agencies, including the standards and regulations of affected utility providers.
- B. All subdivision and other development plans to be reviewed pursuant to this Article shall comply with the zoning requirements of this Chapter. Neither the Planning Commission nor the Administrator shall approve any subdivision or other development plan the result of which would be to reduce a lot's yards, area, or width below the minimum requirements established for the affected zoning district.

## SECTION 5.3.1005 Suitability of the Land

No subdivision or other development plan shall be approved if land intended for building sites cannot be used safely for building purposes without being in danger of flood or other inundation or other menaces to the health, safety, or public welfare. Such decisions will be based on the Atlantic Beach Comprehensive Plan, related reports, and other documentation deemed reliable by the Planning Commission or Administrator.

## SECTIONS 5.3.1006 through 5.3.1019 Reserved

# DIVISION 2. SUBDIVISION STANDARDS

## SECTION 5.3.1020 Purpose and Intent

The purpose of subdivision layout is to create a functional and attractive development with infrastructure and lots appropriately sized and located to minimize adverse impacts. The intent of this division is to provide clear requirements and guidelines for subdivision design for both major and minor subdivisions.

## SECTION 5.3.1021 General Subdivision Requirements

- A. The layout of the development shall be based on a complete site analysis. Streets and lots shall be designed and situated to minimize alteration and, to the extent practicable, preserve natural and historic site features.

## ARTICLE X. LAND DEVELOPMENT STANDARDS

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- B. The subdivision layout shall consider the practicality and economic feasibility of development of individual lots including the environmental characteristics, size of the site, and the requirements of this Chapter.
- C. Unique and fragile elements including, but not limited to, wetlands, significant stands of trees, and individual trees of significant size shall be preserved where practical, with development reserved for environmentally stable areas.
- D. Open space and recreational areas shall be planned in accordance with the requirements of this Chapter.
- E. To the extent practical, the proposed development shall be coordinated with all existing and officially approved plans for the surrounding community.
- F. Lots shall be situated so that stormwater may be easily directed away from buildings in subsequent site-specific development. Lots shall be configured so that buildings and general flood sensitive site facilities can be located out of drainageways. Subdivisions shall be designed so as to comply with stormwater requirements of this Article.

### SECTION 5.3.1022 Layout of Lots and Blocks

- A. Subdivisions may be laid out in conventional, cluster, or a combination of block/lot designs.
- B. The lot configuration and shape shall provide satisfactory sites for buildings, and be properly related to topography, natural elements, access, drainage, and utilities and conform to all requirements of this Chapter.
- C. Lots shall be as nearly rectangular in shape as practical, given consideration of environmental features. Side lot lines shall be as perpendicular to straight streets and radial to curved streets and cul-de-sac turnarounds as practical. The dimensions of corner lots shall permit the required building setbacks from streets and site triangles (see Section 5.3.600). Lots shall not be designed with irregular shapes for the purpose of access or to obtain street frontage.
- D. The number of lots within a block shall be as appropriate for the location and the type of development contemplated as practical. Visual monotony created by excessive blocks of lots which are not interrupted by intersections, open space, buffers, and/or features shall be avoided.
- E. Pathways are encouraged throughout the subdivision. Pathways may be required by the Administrator to provide circulation or access to schools, playgrounds, shopping, or other community facilities. Interconnection with other pathways is also desirable.

### SECTION 5.3.1023 Frontage

Lots created hereafter shall have frontage on and access to a public street. No subdivision shall be approved unless the lot(s) to be subdivided shall have a minimum of fifty (50) feet of frontage on a public street. This requirement may be reduced to thirty-five (35) feet for lots located on a cul-de-sac and to twenty (20) feet for a lot in an approved zero-lot-line development if, in the opinion of Administrator, such reduction would not hinder lot access and all other requirements of this Chapter can be met.

# ARTICLE X. LAND DEVELOPMENT STANDARDS

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## SECTION 5.3.1024 Double Frontage Lots and Access to Arterials

- A. **Double Frontage Lots.** Double frontage lots shall be avoided except where it is necessary to provide separation of residential development from traffic arterials or overcome specific disadvantages of topography or orientation.
- B. **Residential Buffers for Arterial Streets.** In general, exclusive access to residential lots from US Hwy 17 shall not occur. The Atlantic Beach Planning Commission or the Administrator may require lots that abut upon or are adjacent to US Hwy 17 face a cul-de-sac, local, collector, or minor arterial street. The commission or Administrator may require screen plantings contained in a non-access reservation along the rear property line adjacent to the arterial street, deep lots with rear service drives, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

## SECTION 5.3.1025 Monuments and Markers

All corners and points within a subdivision shall be marked with monuments in accordance with the most current edition of the *Standards of Practice Manual for Surveying in South Carolina*.

## SECTION 5.3.1026 Addressing and Lot Numbering

The Administrator shall determine a method of street addressing/lot numbering. Applicants should consult with the Town for site-specific review.

## SECTIONS 5.3.1027 through 5.3.1029 Reserved

# DIVISION 3. STREET DESIGN, IMPROVEMENTS, AND DEDICATION

## SECTION 5.3.1030 Purpose and Intent of Division

This division establishes basic design and improvement standards for new streets and specifies the process to be followed for the dedication and acceptance of these streets into public maintenance. The requirements of this division are to be considered the minimum standards for the acceptance of streets by the Town of Atlantic Beach.

The State of South Carolina's Department of Transportation has promulgated a construction standards manual entitled *SCDOT Standard Specifications for Highway Construction* [SCDOT's Specifications]. The regulations contained in SCDOT's Specifications (latest edition) are to be considered supplemental to the requirements of this division. Where this division does not provide a specific standard for construction, material type, inspection, or testing, the requirements as contained in SCDOT's Specifications shall apply and shall govern the occurrence. Where this division provides standards in excess of those contained in SCDOT's Specifications, the provision of this division shall govern. All questions concerning an alleged conflict between the requirements of this division and those contained within SCDOT's Specifications shall be referred to the Administrator for resolution.

## SECTION 5.3.1031 Street Design in General

- A. **Conformity to the Official Map.** The location and width of all proposed streets shall be in conformity with the official map as may be adopted by the Town Council.

## ARTICLE X. LAND DEVELOPMENT STANDARDS

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- B. **Continuation of Adjoining Street System.** The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, the Town's grid pattern should be maintained.
- C. **Access to Adjacent Properties.** Where it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround shall be provided.
- D. **Private Streets Prohibited.** There shall be no private streets platted in any subdivision or other land development. Private access may be granted through the platting of an ingress/egress easement; however, no new lot shall be created without frontage on and access to a public street as required by Section 5.2.1023.
- E. **Reserve Strips.** Reserve strips at the terminus of a new street are prohibited. In addition, reserve strips extending parallel to planned rights-of-way are prohibited except in cases where the Planning Commission determines that such reservations would be necessary to preserve public safety or to maintain the street's level of service.

### SECTION 5.3.1032 Street Grade

- A. Grades on streets shall not exceed three (3) percent. In cases where topographical conditions make the maximum slopes of this subsection impractical, the Planning Commission may approve greater slopes subject to the design modification provisions contained in Article III of this Chapter.
- B. All streets shall have a minimum grade of not less than one-half (1/2) of one (1) percent. The finished street section shall have a slope of two (2) percent from the center line crown to the curb/shoulder.

### SECTION 5.3.1033 Intersections

- A. Streets shall be designed so as to intersect, as nearly as possible, at right angles, and no street shall intersect any other street at an angle of less than seventy-five (75) degrees. Streets crossing natural areas or streams shall cross such features at or near to right angles as is possible within the limits of topographic conditions.
- B. New intersections along one (1) side of an existing street shall coincide with and, if practical, be directly opposite any existing intersections on the opposite side of each street. For all streets, the use of "T" intersections is encouraged. To avoid corner-cutting when inadequate offsets exist between intersections, offsets shall be at least 125 feet between centerlines of intersecting streets.

### SECTION 5.3.1034 Street Curves

- A. **Vertical Curves.** Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of 200 feet, said sight distance being measured from the driver's eyes, which are assumed to be four (4) and one-half (1/2) feet above the pavement surface, to an object four (4) inches high on the pavement.
- B. **Horizontal Curves.** Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. On streets with rights-of-way sixty (60) feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets, not less than one-hundred (100) feet.

# ARTICLE X. LAND DEVELOPMENT STANDARDS

## SECTION 5.3.1035 Street Names

Proposed streets, which are obviously in alignment with other existing and named streets, shall bear the assigned name of the existing streets. In no case shall the name of the proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of suffix, street, avenue, boulevard, drive, place, court, etc. It shall be unlawful for any person in laying out any new street or road to name such street or road on any plat, by marking, or in any deed or instrument, without first getting approval of the Planning Commission.

## SECTION 5.3.1036 Right-of-Way and Pavement Width

- A. The minimum pavement and right-of-way width for streets to be dedicated are illustrated in Table 5.3.1036 below:

<b>Table 5.3.1036 Minimum Pavement, Right-of-Way, &amp; Shoulder Widths</b>			
<b>Street Type</b>	<b>Right-of-Way Width<sup>(2)</sup></b>	<b>Pavement Width<sup>(1)(2)</sup></b>	<b>Shoulder Width (Where Ditching is Permitted)</b>
Cul-de-Sac (Residential/Commercial)	40 feet/ 50 feet	20 feet	4 feet/ 8 feet
Local Street	50 feet	22 feet	8 feet
Collector	70 feet	24 feet	10 feet
Minor Arterial	70 feet	24 feet	10 feet
Arterial	120 feet	24 feet	12 feet

**Table Notes:** (1) Pavement width is measured from the edge of the pavement to the edge of the pavement and does not include the width of the curb. (2) The minimum pavement width and right-of-way width do not include medians, left turn lanes, or service lanes. Where these features are provided, the right-of-way width and, where applicable, the pavement width shall be increased by a width equal to the width of these features.

- B. Easements or additional rights-of-way will be required where cut, fill slopes, or other street appurtenances extend beyond the required minimum right-of-way as provided in Table 5.3.1036. Slope areas beyond indicated right-of-way limits shall be kept clear of development until slopes have been constructed.
- C. Right-of-way widths greater than “minimum” are encouraged because they make a safer, more aesthetic and more “comfortable” facility and permit future roadway widening without disrupting abutting property.

## SECTION 5.3.1037 Cul-de-Sacs and Dead End Streets

- A. Residential cul-de-sacs shall have a minimum right-of-way radius of sixty-five (65) feet and minimum outside edge-of-pavement radius of fifty-five (55) feet.
- B. Nonresidential cul-de-sacs shall have a minimum right-of-way radius of seventy-five (75) feet and a minimum outside edge-of-pavement radius of sixty-five (65) feet.
- C. A cul-de-sac shall have a minimum width of twenty (20) feet of unobstructed pavement.
- D. The maximum length of a cul-de-sac shall be 500 feet.
- E. No dead-end streets shall be permitted except those ending in a cul-de-sac.

# ARTICLE X. LAND DEVELOPMENT STANDARDS

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## SECTION 5.3.1038 Blocks

Blocks shall not be less than 400 feet nor more than 1,200 feet in length, except as the Planning Commission considers necessary to secure efficient use of land or desired features or street patterns. In blocks over 800 feet in length, the Planning Commission may require one (1) or more public walkways of not less than ten (10) feet in width to extend entirely across the block and at locations deemed necessary. Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, except where fronting on major streets or prevented by topographical conditions or size of the property, in which case the Planning Commission may approve a single tier of lots of minimum depth.

## SECTION 5.3.1039 Designated On-Street Parking

Where designated on-street parking is to be provided in conjunction with a proposed street, pavement width shall be increased to accommodate parking stalls. A minimum eight (8) feet of additional surface shall be required for each street side that designated parallel parking is proposed. In such instances, the Planning Commission may require right-of-way in addition to the minimum established by Table 5.3.1036. Designated angled or slanted parking on proposed streets is discouraged and the Planning Commission shall deny such proposals except in cases where it can be demonstrated that the parking arrangement is in the public interest and safety concerns can be mitigated.

## SECTION 5.3.1040 Curbing and Standards for Open Ditching

- A. Except as provided in this section, concrete extruded curb or curb and gutter shall be installed for all new streets. The Planning Commission may permit the use of in-right-of-way ditching (in lieu of curb and gutter) in cases where:
  - 1. The new street will serve as an extension to an existing street (without curbs) that utilizes in-right-of-way ditching for drainage; or
  - 2. The new street will have more than three (3) traffic lanes and the inclusion of curb and gutter with accompanying storm sewers is deemed impractical.
- B. When ditching is permitted, the slope of the in-right-of-way ditch shall not exceed 3 to 1 (three feet horizontal for every one foot vertical). A street shoulder, meeting the width requirements of Table 5.3.1036, shall be maintained between the edge of the pavement and the ditch slope. The location of in-right-of-way ditching and the placement of sidewalks and utilities shall be coordinated. Required utilities shall not be placed within the slope or line of any ditch nor shall the ditch's slope be placed within two (2) feet of the edge of a required sidewalk.

## SECTION 5.3.1041 Construction Standards and Surfacing

- A. All new streets are to be constructed and surfaced in accordance with these regulations and, when applicable, the standards as set forth in the *SCDOT Standard Specifications for Highway Construction* (latest edition). In addition to all standards previously listed, the following construction standards are required:
  - 1. Clearing and Grubbing. All work is required to conform to the standards as set forth by SCDOT Specifications.
  - 2. Subgrade. The street subgrade shall consist of sound, undisturbed natural subsoils compacted to 95% Modified Proctor as specified in Section 208 of the SCDOT Specifications.
  - 3. Base Courses. Base course shall consist of one (1) of the following types:

## ARTICLE X. LAND DEVELOPMENT STANDARDS

- a. Soil aggregate (coquina) as specified in Section 304, SCDOT Specifications;
  - b. Stabilized Aggregate as specified in Section 305, SCDOT Specifications;
  - c. Cement Stabilized Aggregate as specified in Section 308, SCDOT Specifications; or
  - d. Hot Laid Asphalt Aggregate Base as specified in Section 311, SCDOT Specifications.
4. Surface Course. The surface course shall consist of Hot Laid Asphalt Concrete Surface Course, Type I and Type III, as specified in Section 403, SCDOT Specifications.
  5. Paving Tolerances. The average of the core samples shall be at least the minimum required paving depth. No individual core depth shall be less than ninety (90) percent of the minimum required depth. Where areas of inadequate depth are found, additional cores shall be taken to define the deficient area. The deficient area shall be removed and replaced in a curb and gutter situation, or overlaid if no curbing is present. Overlay shall be a one (1) inch minimum depth. Paving "birdbaths" shall be no larger than twenty (20) square feet and no greater than 3/16" deep when measured with an eight (8) foot straightedge.
  6. Traffic control signs shall be installed in accordance with the South Carolina Manual of Uniform Traffic Control Devices as required by state law. Speed limit signs shall be posted at the entrances to developments and at appropriate intervals within the development. All traffic control sign surfaces shall be Type III High Intensity Sheeting. Signs shall be mounted on steel u-channels.
  7. Street name signs shall be the standard size and color pattern of the Town of Atlantic Beach and shall be mounted on steel posts with appropriate brackets.
  8. Pavement striping of collector roads and arterials shall be required, to include centerlines, edge lines (unless curb and gutter is used), lane dividers, turn arrows, stop bars, and pedestrian crossings. All lane striping shall be latex-based. All stop bars, turn arrows, and pedestrian crossings shall be thermoplastic.
- B. **Material Thickness.** The minimum required materials, base, and pavement thickness are provided in Table 5.3.1041. The values shown are the minimum required for good soil conditions. The Planning Commission or Administrator may require that a geotechnical report and pavement design be provided if the native soil conditions are considered unsatisfactory or are of questionable quality.

<b>Table 5.3.1041</b>			
<b>Base and Pavement</b>			
<b>Table of Materials and Minimum Thickness</b>			
<b>Street Type</b>	<b>BASE</b>	<b>BINDER</b>	<b>SURFACE</b>
Arterial Streets (Major)	15" Coquina or 10" SABC	3"	2" Type I
Arterial Streets (Minor)	15" Coquina or 10" SABC	3"	2" Type I
Collector (Major)	12" Coquina or 8" SABC	2"	2" Type I
Collector (Minor)	9" Coquina or 6" SABC	1.5"	2" Type I
Cul-de-Sacs and Dead End Streets	9" Coquina or 6" SABC	None Required	2.5" Type I
All Other Local or Minor Streets	9" Coquina or 6" SABC	1.5"	2" Type I

# ARTICLE X. LAND DEVELOPMENT STANDARDS

## SECTION 5.3.1042 Sidewalks

- A. When a new street(s) is to be dedicated or in cases where a sidewalk(s) is planned as part of a development proposal, sidewalks shall be constructed in accordance with the requirements of this section and SCDOT's Specifications. The construction and dedication of sidewalks shall be concurrent with the construction and dedication of streets as provided by this division.
- B. Except for cul-de-sac and dead end streets, sidewalks shall be constructed on both sides of the street. New cul-de-sac and dead end streets shall have sidewalks the full length of one (1) street side; however, the Planning Commission or Administrator may require the construction of sidewalks on both sides of a dead end street in cases where the arrangement of the street makes its extension practical or the dead end street is constructed as part of a multi-phased development and future extension is planned.
- C. Sidewalks shall be constructed to a sufficient width, slope, and provide ramping to ensure accessibility as required by the Americans with Disabilities Act (ADA). The minimum width for newly constructed sidewalks is provided in Table 5.3.1042C below:

<b>Table 5.3.1042C Minimum Sidewalk Width</b>	
<b>Street Type</b>	<b>Minimum Sidewalk Width</b>
Arterial Streets (Major)	8 feet
Arterial Streets (Minor)	6 feet
Collector (Major)	6 feet
Collector (Minor)	6 feet
Cul-de-Sacs and Dead End Streets	5 feet
All Other Local or Minor Streets	5 feet

Where a new sidewalk will serve as an extension to an existing sidewalk having a greater or lesser width than provided in Table 5.3.1042C, the Planning Commission may modify this requirement, so that the new sidewalk is constructed at a width equal to the width of the existing sidewalk, provided that an adequate width for accessibility is provided.

- D. All new sidewalks shall be constructed within the dedicated right-of-way. In residential districts the sidewalk shall be setback a minimum of two (2) feet from the back of the street curb or, where no curb is provided, a minimum setback of three (3) feet from the edge of pavement shall be observed. The area between the sidewalk and the street curb or surface shall be landscaped with grass. Where other plantings are proposed by a developer, the Planning Commission may approve such plantings subsequent to a recommendation from the Town Manager.
- E. Except as provided by Section 5.3.1045, sidewalks are to be constructed of Portland Cement.

## SECTION 5.3.1043 Street Lighting

Lighting, if provided, shall comply with the standards recommended in the IES Lighting Handbook (1981 or as revised), published by the Illuminating Society of North America, or other standards approved by the Administrator. All such lighting shall be hooded or directed, to the extent practical, to shield the light source from direct view from adjacent properties and streets.

# ARTICLE X. LAND DEVELOPMENT STANDARDS

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## SECTION 5.3.1044 Street Furniture

Street furniture, which consists of the man-made elements of a streetscape generally associated with the amenities for pedestrians, shall be placed where needed and not interfere with the safe use of the sidewalk or roadway.

## SECTION 5.3.1045 Decorative and Substitute Materials

- A. The Planning Commission may approve sidewalks and/or street surfaces that incorporate decorative elements or substitute materials provided the request is accompanied by certification from the developer and Administrator indicating:
  - 1. The substitute material(s) is of equal or comparable strength and durability;
  - 2. The substitute material(s) or decorative elements can be maintained by the Town without additional public expenditure; and
  - 3. The substitute material(s) or decorative element(s) will not compromise the accessibility of the sidewalk or the functionality of the street.
- B. The dedication and subsequent acceptance of streets and sidewalks containing decorative elements or substitute materials shall in no way obligate the Town Council to repair or replace any damaged or deteriorated section to the original design standard.

## SECTION 5.3.1046 Street Construction Plans; Inspections; As-Builts; Acceptance of Street Improvements

- A. **Plan Required.** Street construction shall not commence until a preliminary plat, illustrating the proposed street, has been approved by the Planning Commission and street construction plans, consistent with the requirements of this Article, have been submitted to and approved by the Administrator. Construction plans shall consist of three (3) blue or black line copies of the proposed construction on sheet sizes of twenty four (24) inches by thirty six (36) inches. The following information shall be shown:
  - 1. Street Profiles. The final grades of each street shall be shown at a horizontal scale equal to one-tenth (1/10<sup>th</sup>) of the horizontal scale;
  - 2. Street Cross-Section. A scale of one (1) inch to ten (10) feet shall be used to show the cross-section of each new street. The cross-section shall include pavement width, curb, gutters, sidewalks, utility locations, and, where applicable, shoulders;
  - 3. Miscellaneous Depictions. Drainage easements, rights-of-way improvements including the location of sidewalks, manholes, and catch basins, street signs, street lights, the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains, and all underground utilities including fire hydrant hook ups shall be illustrated; and
  - 4. Other Materials. When the proposed subdivision or development is only a portion of the owner's holdings and intentions are for future development, a sketch plan illustrating the street layout and proposed lots of the remaining tract is required.

The Administrator shall have sixty (60) days following the submission of street construction plan to approve, approve with conditions or other modifications, or disapprove the plan. The sixty (60) day time limit may be extended with the mutual agreement of the applicant and the Administrator. The failure of the Administrator to act within sixty (60) days or within any agreed extension shall

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constitute approval of the plan. The failure of the Administrator to act on the request shall not bind the Town Council to accept any street into public maintenance which does not meet the requirements of this Chapter.

- B. **Inspections.** A minimum of two (2) working days notice must be given for any requested inspection. If subsequent work is done prior to inspection, it is done at the developer's own risk and may, upon a decision of the Administrator, be required to be removed and reinstalled or have the quality substantiated by additional tests as determined by the Administrator. In the event that weather or construction activities result in changes to approved conditions, re-inspection shall be required before proceeding to the next stage of construction. All approved inspections shall be valid for a maximum of thirty (30) days. Inspections will be required after each of the following stages of construction and shall meet the minimum requirements of this Chapter and, when applicable, the requirements of the SCDOT Standard Specifications for Highway Construction:
1. Clearing and grubbing;
  2. Drainage installation;
  3. Subgrade;
  4. Base installation;
  5. Prime coat application;
  6. Pavement installation;
  7. Sidewalk installation;
  8. Grass seeding of shoulders and ditches;
  9. Sign installation including street name signs and traffic control signs; and
  10. Final inspection of all completed infrastructure.
- C. **As-Built-Plan.** Following the completion of in-right-of-way construction, the developer shall submit to the Administrator three (3) copies of an "as built" plan documenting the condition of the improvements. The plan shall be based on actual field surveys for location and elevation information. The plans shall bear the stamp, seal, and signature of the land surveyor or engineer who prepared the plan. In the event the "as-built" plan shows that field changes were made, or significant differences exist from the design plans, the design engineer or another civil engineer shall certify that the changes or differences are not detrimental and that the system will still meet the minimum standards of these regulations.
- D. **Street Improvement Acceptance.** The Town Council shall accept a street and other in-right-of-way improvements into public maintenance, when such improvements are installed in accordance with these regulations. The acceptance by the Town Council must be preceded by the referral of the acceptance request to the Planning Commission for a recommendation. The Town Council shall not be obligated to accept any improvement where the developer has failed to follow the design, construction, or procedural requirements of this Chapter.

### SECTION 5.3.1047 Reserved

# ARTICLE X. LAND DEVELOPMENT STANDARDS

## DIVISION 4. UTILITIES

### SECTION 5.3.1048 Developments to be Served by Utilities

- A. All new developments are to be served by utilities. These utilities include electric, public water to include the installation of fire hydrants, sewer, telephone, and natural gas services. The extension of utilities to service a development site or individual lots within a subdivision shall be at the developer's expense. Easements sufficient to convey such services shall be provided in accordance with Section 5.3.1049.
1. Natural Gas. Natural gas lines shall be extended to serve all major subdivisions and nonresidential developments when existing lines and connections are available within 200 feet of a development or subdivision. Gas lines, when practicable, shall be located in a utility easement adjacent to the street right-of-way. Where an extension would require placement within the right-of-way, the line shall be setback no less than five (5) feet from the back of the street curb or, when no curb is provided, no less than five (5) feet from the paved surface of a street (excluding laterals and required crossovers). Except in zoning districts permitting buildings to be located on the front property line, gas lines shall not be located under a sidewalk.
  2. Water Supply and Fire Hydrants.
    - a. Public water lines and related infrastructure shall be extended to serve all subdivisions and developments when existing lines and connections are available within 250 feet of a development or subdivision. Water lines, when practicable, shall be located in a utility easement adjacent to the street right-of-way. Where an extension would require placement within the right-of-way, the water line shall be setback no less than five (5) feet from the back of the street curb or, when no curb is provided, no less than five (5) feet from the paved surface of a street (excluding laterals and required crossovers) provided right-of-way width is sufficient to accommodate such placement. Except in zoning districts permitting buildings to be located on the front property line, water lines shall not be located under a sidewalk.
    - b. Where determined by the Town that existing water lines or connections are not available within 250 feet of a property, the installation of a private well(s) to service a development or individual subdivision lots may be permitted. Installation of private wells are subject to the requirements of SCDHEC.
    - c. The installation of water line improvements shall include the installation of fire hydrants in accordance with the requirements of the State Fire Code or other applicable regulations. Where a water line extension is not required to service a development; however, the development of land would necessitate the placement of a fire hydrant(s) under the applicable code, a hydrant(s) shall be installed at the developer's expense prior to the issuance of a Certificate of Occupancy.
  3. Sewerage System.
    - a. Public sewer lines and related infrastructure shall be extended to serve all subdivisions and developments when existing lines and connections are available within 250 feet of the nearest property line of a development or subdivision. Sewer lines, when practicable, shall be located in a utility easement adjacent to the street right-of-way. Where an extension would require placement within the right-of-way, the line shall be setback no less than five (5) feet from the back of the street curb or, when no curb is provided, no less than five (5) feet from the paved surface of a street (excluding laterals and required crossovers) provided

## ARTICLE X. LAND DEVELOPMENT STANDARDS

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right-of-way width is sufficient to accommodate such placement. Except in zoning districts permitting buildings to be located on the front property line, sewer lines shall not be located under a sidewalk.

- b. Where determined by the Town that existing sewer lines or connections are not available within 250 feet of a property, the installation of a private septic system(s) to service a development or individual subdivision lots may be permitted subject to the requirements of SCDHEC.
- B. Utility extensions shall be coordinated with street construction as provided in this Article. The placement of utility lines with the installation of laterals to service individual lots shall occur prior to the surfacing of any street to avoid surface cuts. Compacted subgrade or base materials which are disturbed by the placement of utility lines and laterals shall be re-compacted and tested prior to the surfacing of any street.
- C. All new major subdivisions shall provide underground telephone and electric service unless such placement is determined to be impractical or prohibitive by the Planning Commission. The commission shall base its determination to permit an above ground placement on documentation from the utility provider demonstrating adverse subsurface conditions, impediments caused by existing infrastructure, or other engineering concerns.

### SECTION 5.3.1049 Utility Easements Required for Subdivisions and New Developments

- A. **Utility Easements.** To provide for the installation and perpetual maintenance of natural gas, water and sewer, telephone, and electric services, utility easements shall be provided along the front property line adjacent to the street. Easements shall be not less than ten (10) feet in width. In blocks greater than 800 feet in length, one (1) side yard utility easement of no less than twenty (20) feet in width (ten [10] feet per lot) shall be provided for every 400 feet of street frontage.
- B. The individual utility providers may request, and the Planning Commission may require, easements of greater width or varied location than the minimum standards provided in Subsection A.
- C. All utility easements are to be platted consistent with the procedures specified in Article III of this Chapter.
- D. **Exception.** The requirements of Subsection A shall not apply in zoning districts where buildings are permitted to be located on the front property line or in minor subdivisions or other developments where no utility extensions are required.

### SECTION 5.3.1050 Plan Submission; Approval; Inspections

- A. Prior to the installation of utilities as provided by this Article, complete plans shall be submitted and approved by the applicable utility provider and the Administrator. The content of complete plans shall follow the requirements of the utility provider and this Chapter. The Administrator shall have sixty (60) days following the submission of utility construction plan to approve, approve with conditions or other modifications, or disapprove the plan. The sixty (60) day time limit may be extended with the mutual agreement of the applicant and the Administrator. The failure of the Administrator to act within sixty (60) days or within any agreed extension shall constitute approval of the plan.
- B. Inspections shall follow the requirements of the applicable utility provider. In addition, when utility installation is to occur within a right-of-way or is to be performed in conjunction with construction of a new street, the inspection requirements of Section 5.3.1046 shall apply.

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- C. Upon completion, the developer shall submit to the Administrator three (3) copies of an “as built” plan documenting the condition of the improvements. The plan shall be based on actual field surveys for location and elevation information. The plan shall bear the stamp, seal, and signature of the land surveyor or engineer who prepared the plan. In addition, the developer shall provide to the Administrator written certification from the utility provider that the utility(ies) have been installed in accordance with applicable standards and maintenance of the in-right-of-way infrastructure has been assumed by the public or franchised utility.

### SECTION 5.3.1051 Reserved

## DIVISION 5: STORM DRAINAGE AND FLOODING

### SECTION 5.3.1052 General Requirements

- A. No subdivision or other development plan shall be approved unless adequate provisions for storm or flood water runoff channels or basins are made. The storm drainage system shall be separate and independent of any sanitary sewer system. The commission and/or Administrator shall, in accordance with this Division, require the submission of drainage plans and computations during the subdivision or development review process.
- B. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities. If no outlets are within a reasonable distance, adequate provisions shall be made for the disposal of stormwaters.
- C. All subdivision and other land developments shall comply with the Town of Atlantic Beach Flood Damage Prevention Ordinance. The Planning Commission may, when it deems it necessary for the health, safety, and welfare of the present and future population of the area and necessary for the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of a property which lies within the area of special flood hazard of any stream or drainage course.

### SECTION 5.3.1053 Applicability and Exceptions

All development shall include adequate provisions for stormwater management. The following developments are exempt from the requirements of sections 5.3.1055 to 5.3.1061:

1. All developments exempted by this Chapter from development plan review, unless other applicable review procedure requires compliance with provisions for stormwater management;
2. The establishment of a single family residential structure and its accessory structures that are part of an approved subdivision, or additions or modifications to existing single family residential structures. Such activities are, however, subject to the Town of Atlantic Beach Flood Damage Prevention Ordinance;
3. Existing agricultural activity and new agricultural activity not involving the filling or drainage of land;
4. Work by agencies or property owners required to meet emergency flooding conditions. If practicable, emergency work should be approved verbally by the Administrator or other duly appointed official in charge of emergency preparedness or emergency relief. Property owners performing emergency work will be responsible for any damage or injury to persons or property

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caused by their unauthorized actions. Property owners will restore the site of the emergency work within sixty (60) days following the end of the emergency period; or

5. Developments that do not disturb more than 5,000 square feet of land in total, nor disrupt existing drainage patterns.

### SECTION 5.3.1054 General Standards for Stormwater Management

The following standards shall pertain to all stormwater management planning:

1. Each development shall incorporate stormwater management facilities sufficient to maintain pre-development peak discharge rates across adjacent property lines. In the case of redevelopment, the pre-development condition shall be defined as the natural state. This requirement may be waived where a suitable means of flow into a downstream tidal discharge point is accessible; or where the applicant provides a drainage system with adequate capacity to carry site flows to an ultimate downstream tidal discharge point. Except as noted above, discharge of runoff into tidal or freshwater wetlands shall be limited to pre-development conditions, unless otherwise approved by the SCDHEC-OCRM;
2. No development shall be undertaken that can be shown to appreciably increase the flood potential within the development, on adjacent or surrounding lands or on tidal or freshwater wetlands. If such potential is in question, the Administrator shall make the final determination;
3. Development plans may be rejected by the Administrator if they incorporate structures and facilities that will demand considerable maintenance, will be difficult to maintain, or utilize numerous small structures if other alternatives are physically possible;
4. No stormwater discharge shall be permitted onto beaches; and
5. All drainage plans and calculations shall be prepared by a professional engineer, licensed in the State of South Carolina.

### SECTION 5.3.1055 Standards for Impervious Surface Coverage

- A. Permanent on-site water surface areas shall be considered as impervious surfaces for purposes of site hydrologic calculations. In the calculation of pervious/impervious ratios, permanent water bodies shall be considered as impervious surface.
- B. The maximum impervious surface site coverage permitted on any development site shall conform with the maximum coverage requirements for each district as stipulated in Table 5.3.420A.

### SECTION 5.3.1056 Methodologies

Surface runoff calculations shall consider the entirety of all drainage areas which extend off-site upstream. These flows may be approximated using runoff coefficients or other methods acceptable to the Administrator. Computation of surface runoff shall utilize one (1) or both of the following methodologies:

1. **The Rational Method.**
  - a. Zero (0) to ten (10) acre tracts: will include consideration of existing conditions surrounding the tract to be developed within 500 feet of the boundaries thereof if contributory to or impacted by the development.

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- b. Eleven (11) to 200 acre tracts: will include the hydrologic features within the total watershed, if determinable, including the site itself, contributory upstream areas, and impacted downstream areas.
- c. A comparative analysis may be required when the tract size exceeds fifty (50) acres using SCS TR-55 under 2 above. (Additional comparative analyses are encouraged when results from methods A and B differ substantially).
- d. For development in the WF1 and WF2 districts, the applicant shall provide additional calculations which quantify the impact of the subject non-residential development on upstream and downstream drainage systems.

### 2. The USDA Method.

- a. The USDA SCS T.R.-55, Urban Hydrology for Small Watersheds and USDA SCS National Engineering Handbook Section 4, Hydrology methodology may be used for tracts with total watershed areas up to 200 acres and must be used on watershed areas exceeding 200 acres.
- b. The following design criteria shall be used for either methodology chosen for computation:
- c. Design Storm: The design storm for Atlantic Beach is 25-year Frequency/24 hour/8.0 Inch Rainfall, Antecedent Condition II.
- d. Impacts – Required:
  - (1). Site inflows C.F.S. + (Hydrograph);
  - (2). Site outflows C.F.S. + (Hydrograph);
  - (3). Tidal backwater effects;
  - (4). Soil characteristics;
  - (5). Static water levels;
  - (6). Peak water levels - 25-year storm;
  - (7). Peak water levels shall be checked relative to a 100 year storm frequency in setting first flow elevations; and
  - (8). Pre-development conditions shall be carefully evaluated as to adequacy of drainage design (if any); and removed, replaced, or reworked if found unsatisfactory.
- e. Method:
  - (1). Pervious surface usage shall incorporate underlying soil characteristics;
  - (2). The Savannah Intensity - Duration Curve shall be used in computations; and
  - (3). S.C.S. - T.R. 55 Method - The minimum Curve Number used shall be thirty-nine (39) with a class A soil characteristic.

# ARTICLE X. LAND DEVELOPMENT STANDARDS

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## SECTION 5.3.1057 Design Standards

- A. **25-Year Storm.** The 25-year frequency storm shall be used in the design of all drainage systems and runoff detention/retention structures.
- B. **On-Site Retention.** Except as exempted by Section 5.3.1053, all subdivisions and developments shall provide for on-site retention (dry or wet), or percolation of stormwater sufficient to maintain predevelopment 25-year frequency peak discharges after development has occurred.
- C. **Site Area.** The site shall be the total area of development, including noncontiguous lands if part of a noncontiguous planned development application, and shall be owned in fee simple or have perpetual cross easements for drainage purposes, in accordance with Section 5.3.1058.
- D. **Retention of First Inch.** All applicants for development will provide for on-site retention (dry or wet) or percolation areas for, as a minimum, one (1) inch of runoff from on-site impervious surfaces. The one (1) inch of runoff from all such impervious surfaces shall be dissipated by percolation into the soil, or evaporation or other methods of treatment or handling acceptable to the Administrator. For purposes of this section, the "site" of a development within a planned development shall be anywhere within the property boundaries of such planned development. In a noncontiguous planned development, each noncontiguous site area shall separately satisfy stormwater management requirements of this part.
- E. **Retention or Percolation Areas.** Retention (dry or wet) or percolation areas may utilize on-site or off-site areas, providing that the developer seeking off-site relief will show evidence of an assigned drainage easement, bear the total cost of such improvements and obtain the approval of the Administrator that such improvements are in the common good and are of satisfactory design to cause no hardship to others utilizing the same drainage way, on site, upstream, or downstream. If off-site retention is used, the applicant shall provide appropriate legal documents to ensure that the off-site retention areas and the cross-easements associated with these retention areas are properly and perpetually maintained.
- F. **Hydrologic Requirements.** The hydrologic requirements for proposed development sites shall be determined in accordance with the U.S. Department of Agriculture, Soil Conservation Services (SCS) Technical Release No. 55, entitled Urban Hydrology for Small Watersheds and SCS National Engineering Handbook, Section 4, entitled Hydrology. Other methodology may be used when approved by the Administrator. A pre-design conference with the Administrator is suggested on small projects not affecting major drainage ways or environmentally sensitive areas, and will be required on all developments over one-half (½) acre in area.
- G. **Curve Numbers.** Curve Numbers shall not be less than the minimums established in SCS National Engineering Handbook Section 4, Hydrology and shall be in all cases acceptable to the Administrator.
- H. **Peak Discharge or Runoff.** After provisions are made for retaining or percolating the first inch of runoff from impervious surfaces, the peak value of the discharge hydrograph or runoff calculations for the developed or redeveloped site shall not exceed, in terms of peak flow, the peak value of the discharge hydrograph or runoff calculations of conditions existing prior to development or redevelopment for a 25-year storm of 24-hour duration (8.0 inches). The Administrator shall require submission of stormwater runoff calculations to determine compliance with this division. Retention and detention ponds may be used to retain and detain the increased and accelerated runoff which the development generates. Water shall be released from detention ponds into drainageways, channels, marshes, or wetlands at a rate, in terms of peak flow, not exceeding pre-development conditions for a 25-year storm of 24-hour duration (8.0 inches). The purpose of limiting the

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discharge rate is to prevent exceeding the capacity of downstream drainage facilities. Planned developments shall provide central detention ponds for runoff from individual phases exceeding the requirements.

- I. **First Flush Runoff.** The first flush runoff (0.5" to 1.0") from paved streets and parking areas is very detrimental to the maintenance of water quality standards. Therefore, filtering of runoff from streets and parking areas through vegetation, grass, gravel, sand, or other filter mediums to remove oil, grease, gasoline, particulates, and organic matter is required before the runoff leaves the site or enters any natural or shared in common manmade waterbody.
- J. **Pervious Surface Materials.** Use of pervious surface materials which will allow for the percolation of rain falling on that surface shall be encouraged in order to reduce runoff volumes.
- K. **Pond Shorelines.** Detention and retention ponds shall be designed so that shorelines are meandering where possible, rather than straight, to increase the length of shoreline, thus offering more space for the growth of littoral vegetation for filtering purposes.
- L. **Design of Detention and Retention Ponds.** Detention and retention ponds shall be designed to provide at least one-half (½) foot of vertical detention storage volume for runoff above the proposed dry weather water level design elevation; major drainage canals shall not be used for storage where this may adversely impact the storm hydrology upstream or downstream. Use of rectangular weir outlets will be allowed only where the weir will provide better outlet control needed for a given situation than that provided by a V-notched weir. V-shaped or V-notched weir outlets are recommended to achieve detention storage. Use of innovative outlet structures such as pipe/culvert combinations, perforated riser pipe, or special graduated opening outlet control boxes are encouraged as ways of reproducing pre-development runoff conditions. Design data for storage volume and detention outlet requirements shall be submitted to and approved by the Administrator prior to final plan approval.
- M. **Sediment Loads.** Detention and retention ponds shall be designed for ten (10) year sediment loads before the one-half (1/2) foot storage volume requirement is included. Sediment storage may be accommodated below the dry weather water level design, as long as an adequate permanent pool depth is maintained.
- N. **Bank Stabilization.** Where cleared site conditions exist around detention or retention areas, the banks shall be sloped to the proposed dry weather water surface elevation and planted for stabilization purposes. Where slopes are not practical or desired, other methods of bank stabilization will be used and noted on plans submitted for approval.
- O. **Direct Stormwater Discharges.**
  - 1. Channeling runoff directly into natural water-bodies from pipes, curbs, lined channels, hoses, impervious surfaces, rooftops, or similar methods shall not be allowed unless methods of filtration are provided. Instead, runoff shall be routed over a longer distance through sheet flow, swales, drywells, or infiltration ditches and other methods to increase percolation, allow suspended solids to settle, and remove other pollutants.
  - 2. Where specific site hardships may require a design modification to allow direct discharge into tidal areas, South Carolina Department of Health and Environmental Control's Ocean and Coastal Resource Management (SCDHEC-OCRM) and the Planning Commission's approval will be required before a modification is effective. Granting of a design modification will be based on unique site hardships and not upon a hardship created by the proposed development plan or financial considerations.

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3. Where specific site hardships may require a design modification to allow direct discharge into a natural waterbody, methods of diffusing and filtering the discharge and of reducing the velocity will be required as approved by the Administrator.
  4. Discharging collected stormwater from inverted crown streets, roadways, and parking areas directly into manmade waterbodies is discouraged, and discharge is prohibited into natural waterbodies because of its adverse impact on water quality. Use of crowned streets, roadways, and parking areas which allow opportunities for perimeter and sub-surface infiltration and for sheet flow through vegetation, grass, gravel, sand, or other filter mediums is strongly encouraged. Where direct discharges from inverted crown paved surfaces into manmade water bodies are proposed, the use of skimming devices, oil and grease traps, or aquatic vegetation planted in or at the discharge points of the paved surfaces are required to retain oils, greases, and particulates. Other filtration methods or techniques approved by the Administrator will be acceptable.
- P. **Development Adjacent to Critical Line.** For development adjacent to the SCDHEC-OCRM Critical Line, all overflow pipes located in the critical areas must receive a permit from SCDHEC-OCRM prior to installation.
- Q. **Alteration of Waterbodies.** Dredging, clearing, deepening, widening, straightening, stabilizing, or otherwise altering waterbodies may be permitted by the Administrator only when a positive benefit can be demonstrated. Such approval by the Administrator does not obviate the need for other town, state, or federal agency approvals where applicable.
- R. **Alteration of Surface Water Elevation.** No development will be permitted to construct, establish, maintain or permanently alter the surface water elevation of any waterbody or wetland that will adversely affect the natural drainage from any upstream or to any downstream areas of the drainage basin.
- S. **Water Surface Elevation Approval.** The Administrator must approve the water surface elevations proposed for lagoons or waterbodies. The developer will submit sufficient ground water, topographic elevation data, and hydrologic data on or around the proposed waterbody site to assist in establishing the water surface elevation.
- T. **Adjustments to Surface Water Elevation.** The Administrator may require, as a condition of drainage plan approval, that adjustments be made to existing or approved water surface elevations if upstream or downstream areas require such adjustments to provide required drainage flows.
- U. **Velocities.** Channel and pipe flow velocities shall be maintained at a level which minimizes erosion and sediment transport.
- V. **Landscape Design.** Final landscape designs and plantings shall not work against the stormwater runoff controls and drainage concepts. Landscape design and plantings should further opportunities for percolation, retention, detention, filtration, and plant absorption of site-generated stormwater runoff.

### SECTION 5.3.1058 Drainage Easements

- A. **Assignment.** The Administrator may require as a condition for obtaining approval of runoff control and drainage plans that the applicant record plats or covenants insuring that drainage easements and facilities are assigned to a specific entity. Specific entities may include, but are not limited to, the developer, a Homeowners or Landowner's Association or regime, or a public service district.

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If the recording of such covenants or plats is not desired by the applicant, the Administrator will then require as it deems necessary that the applicant solicit dedication to and acceptance by a specific entity of such easements and facilities to assure the provision, maintenance, and operations of said facilities. All required easements or covenants shall be recorded and filed in the Horry County Register of Deeds office and documented prior to the issuance of a Certificate of Compliance.

- B. Maintenance Requirements.** General maintenance requirements necessary to insure the long-term functions of deeded stormwater runoff controls, easements, and drainage facilities shall also be described in the documents establishing the Homeowners or Landowners Association. The documents will also state that the Town or a legal entity having authority over such drainage may perform or require the Homeowners or Landowners Association to take action under the following conditions:
1. Normal maintenance is not performed which results in an adverse affect on drainage flow; or
  2. To alleviate flooding or other emergency drainage problems upstream or downstream of the easement.
  3. The Town will assist the developer in negotiating with the Homeowners or Landowner's Association and other affected parties on equitable distribution of costs incurred in performing or repairing actions taken on these easements under such conditions.
- C. Single Lot Facilities.** Any stormwater management facility which services a single lot nonresidential development shall be privately owned and maintained.
- D. Underground Storm Sewer Easement.** Adequate access for maintenance and improvement of the drainage facility will be required. Generally, for underground storm drain pipes the minimum width of the easement shall not be less than fifteen (15) feet. Additional width may be required by the Administrator based on drainage requirements. Sufficient width as determined by the Administrator will be provided within the easement on one (1) side of the pipe to allow for service equipment mobility and storage of removed fill.
- E. Open Channel Easement.** For all open drainage channels the easement shall be equal to the maximum top width of the ditch, plus an additional fifteen (15) feet. Additional width may be required by the Administrator based on drainage requirements. Sufficient width as determined by the Administrator will be provided within the easement on one (1) side of the ditch to allow for service equipment mobility and storage of removed fill.
- F. Use for Other Easements.** Drainage easements may be used for other easements with the written approval of the Administrator and with consent of the easement holders. Nothing herein shall be construed as prohibiting the use of drainage easements for access to various properties or other compatible uses with the consent of the landowners and easement holders.
- G. Excess Discharge.** Any development may discharge stormwater runoff in excess of that required to be held on-site into private drainageways provided that the applicant submits written agreements with the down-stream owner to receive such discharge from the owners of the bodies, drainage ditches, wetlands, or streams through which such proposed discharge will travel subject to approval by the Administrator.
- H. Downstream Facilities.** A developer may be required to provide adequate outfall ditches, pipes and easements downstream from his proposed discharge, if adequate public or private facilities do not exist to carry the proposed discharge.

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## SECTION 5.3.1059 Drainage Construction Standards

The following specifications are established for all drainage systems required by this Chapter.

1. **Pipe.**
  - a. Generally, only Corrugated Aluminum Pipe Alloy AASHTO M-196: M-197 or Reinforced Concrete Pipe AASHTO M170 or ASTM Spec C-76, Class II are permitted for drainage systems within the Town.
  - b. Such other pipe as is approved in writing by the Administrator may be used.
  - c. Pipe gradients that provide self-cleaning velocities without scour are encouraged.
  - d. Driveway pipes shall have a minimum diameter of fifteen (15) inches.
2. **Catch Basins.** Catch basins shall provide for a bottom sand trap of 1.0 feet below the inlet or outlet, i.e. basins may be required to provide baffles for oil and grease trap operation.
3. **Drainage Swales.** Drainage swales, prior to use, shall have sufficient vegetation to provide filtration and erosion stabilization.
4. **Maintenance.** All privately maintained drainage systems and structures shall provide in their covenants for periodic maintenance.

## SECTION 5.3.1060 Erosion and Sedimentation Control

- A. **Applications.** Erosion and sedimentation controls shall be required on all sites adjacent to waterbodies or drainage ways. The applicant will identify erosion and sediment control measures between the disturbed areas and adjacent waterbodies or drainage ways on plans submitted for development plan approval. The applicant will identify control measures to minimize vehicle tracking of sediments from land disturbing activities onto paved roads.
- B. **Existing Uncovered Areas.**
  1. Any site which has been substantially denuded of vegetation, and which is not in an active phase of development for more than thirty (30) days, shall have functioning erosion and sediment control measures in place and shall be seeded or planted with an acceptable ground cover material. This provision applies to all ongoing development activities as of the effective date of this Chapter.
  2. The Town will serve upon any landowner, by certified mail, written notice to comply with provisions of this Article. The notice will reference the requirements of this Article, will set forth the measures needed to comply, and will state a time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the Town shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits for compliance.
  3. The Administrator shall have the authority to require preparation and approval of an erosion and sedimentation control plan in any instance where extensive control measures are needed as a result of proposed development plans near water courses or waterbodies that flow into tidal marshes.
- C. **Ground Cover Requirement.** To help retain sediment generated by land-disturbing development activities within the boundaries of the development tract, all developers shall plant or otherwise

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provide a permanent dressed ground cover sufficient to restrain erosion after completion of construction or development within thirty (30) calendar days following completion.

### D. Construction Buffer Zones.

1. No land-disturbing activity except recreational uses which permit retention of grasses or other vegetation shall be permitted in proximity to a regulated wetland unless a vegetated strip is provided along the margin of the regulated wetlands of no less than twenty (20) feet in width, or unless other methods or structures of sediment control approved by the Administrator are used in place of a buffer zone to be created after construction which will prevent sediment from leaving the site and entering the watercourse.
2. Construction buffer zones shall not apply to a land-disturbing activity in connection with construction of facilities to be located on, over, or under a watercourse or waterbody.
3. Construction buffer zones shall not apply to cleared land forming the basin of a reservoir proposed to be permanently inundated.

- E. **Graded Slopes and Fills.** Slopes and fills left exposed shall be stabilized sufficiently and dressed to restrain erosion within thirty (30) calendar days of completion of any phase of grading.

### SECTION 5.3.1061 Stormwater Management Plan Required

Except as exempted herein, prior to the approval of a major subdivision plat or zoning permit for a new development, three (3) copies of stormwater management plan, consistent with the provisions of this division, shall be submitted to the Administrator for review and approval. Plans submitted as part of the review and approval of a major subdivision plat are subject to the review procedures contained in Article III, Division 5. Plans submitted as part of the zoning permit application for a new development are subject to the review procedures contained in Article III, Division 2.

### SECTIONS 5.3.1062 through 5.3.1064 Reserved

## DIVISION 6: SURETY

### SECTION 5.3.1065 Purpose

The developer shall bear the cost of all public improvements required by this Chapter. It is recognized that the developer's need to receive final plan or plat approval may precede the installation and acceptance of public improvements. It is the purpose of this division to provide reasonable accommodation to a developer while guarding the fiscal interests of the Town and its residents. This division provides a mechanism by which a developer can receive final approval prior to the acceptance of improvements, provided sufficient financial guarantees have been established to ensure their timely installation and acceptance.

### SECTION 5.3.1066 Surety Instruments Authorized; Refusal

- A. A surety instrument may be posted to allow for the recording of a final plat or to obtain zoning, building, or other required permits prior to the installation and acceptance of required improvements. Acceptable surety instruments shall include irrevocable letters of credit or cash deposits. The form and sufficiency of surety instruments shall be subject to the approval of the Planning Commission or, where delegated or in cases involving permits, the Administrator.

## ARTICLE X. LAND DEVELOPMENT STANDARDS

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- B. Approved surety instruments shall be independent of the developer's project construction loan. The commission or Administrator shall not accept any surety instrument that requires draw downs for monthly expenditures. Payment of monthly expenditures does not affect the amount of money held by the Town in a surety instrument.
- C. Acceptance of a surety instrument is discretionary. The Planning Commission and Administrator reserve the right to refuse, for cause, a surety instrument for any remaining improvements and require that such improvements be completed before the recording of a plat and/or prior to the issuance of a building or zoning permit.

### SECTION 5.3.1067 Cost Estimate Required; Amount of Surety; Time Limit for Completion of Improvements

- A. **Cost Estimate.** The developer shall submit to the Administrator a detailed itemized unit cost estimate for the proposed public improvements to be guaranteed by the surety instrument. The cost estimate shall include material costs and the cost of installation. Such estimates shall bear the original signature of a licensed professional engineer. Cost estimates may include, but are not limited to, the following improvements:
  - 1. Water and sewer systems;
  - 2. Stormwater management systems (basins, ditching, drains, etc) and storm sewers;
  - 3. Street improvements including grading, surfacing, curbs, gutters, culverts, temporary cul-de-sacs, street signs, lighting, and grassing or landscaping;
  - 4. Fire hydrants; and/or
  - 5. Underground electric service.

The Planning Commission shall verify the sufficiency of the estimate with the appropriate department or agency responsible for the inspection and/or acceptance of the required public improvement. Within thirty (30) days of the receipt of the cost estimate, the Planning Commission shall either approve or deny the cost estimate. Determinations of the commission shall be in writing. If denied, the commission shall state the reasons for the denial. Where delegated by the commission or in cases not involving major subdivision, the Administrator is authorized to approve or deny a cost estimate.

- B. **Amount of Surety and Form.** Upon approval of the cost estimate, the developer shall submit to the Administrator a surety instrument in an amount not less than 125 percent of the approved estimate. Surety instruments shall be accompanied by an application form. The Administrator may accept a letter of credit that substantially conforms to the format as provided in Appendix A. In cases where a cash deposit is provided, the developer shall submit a cashier's check, payable to the Town of Atlantic Beach. Such check shall bear an expiration date of not less than one (1) year. The Town clerk shall, after the acceptance of an application and surety agreement by the Administrator, cause such funds to be deposited in a special account, separate from other funds of the Town, bearing interest at the short term rate prevailing in the market (See Appendix A).
- C. **Time Limit and Extension.** All improvements guaranteed by a surety instrument shall be completed and accepted within one (1) year of the posting of such instrument. The Planning Commission or Administrator may authorize one (1) extension of the surety for a period not to exceed one (1) additional year. The authorization to extend a surety instrument shall only be granted

## ARTICLE X. LAND DEVELOPMENT STANDARDS

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by the commission or Administrator in cases where the developer demonstrates good cause, i.e. adverse weather conditions or material shortages.

### SECTION 5.3.1068 Reduction

A developer may request and the Planning Commission or Administrator may grant a reduction in the amount of a letter of credit during the surety's term to reflect work performed. A request to reduce the letter of credit shall be submitted to the Administrator and shall include a revised cost estimate. The approval of the cost estimate shall follow the same procedures as specified in Section 5.3.1067. The authorization to reduce a letter of credit is discretionary to the commission or Administrator. Requests to reduce a surety, where a cash deposit is posted, shall not be granted.

### SECTION 5.3.1069 Failure to Perform; Unexpended Funds; Insufficient Surety

The Administrator, Planning Commission, or Town Council may draw a letter of credit or authorize the use of a cash deposit when it has been determined that the improvements for which the surety instrument was posted will not be completed in accordance with this code or within the time frame provided by the surety instrument. Upon such default, the proceeds from a drawn letter of credit or cash deposit shall be used by the Town to install the required improvements. The Town may assess reasonable administrative costs, not to exceed ten (10) percent of the total value of the surety, incurred in bidding, contract management, and/or oversight of improvements. Any unexpended funds, once construction is complete, shall be released to the financial institution or responsible entity that posted the surety instrument. Where the surety instrument was insufficient to finance the required improvements after the developer defaulted, the Town Council will assess the developer the cost of the improvements plus any administrative costs over and above the surety amount.

### SECTION 5.3.1070 Release of Surety; Maintenance Warranty for Street Improvements Required

- A. **Release of Surety.** Upon completion of the improvements as required by this Chapter, written notice thereof shall be given by the developer to the Administrator, who shall cause an inspection of the improvements to be made. The Administrator will, within thirty (30) days of the date of notice, authorize in writing the release of the surety instrument, provided improvements have been completed and accepted in accordance with the required specifications.
- B. **Surety Release Involving New Streets.** Notwithstanding the time limits imposed by Subsection A, a surety instrument involving the construction and dedication of a new street(s) shall not be released by the Administrator until the street has been accepted into public maintenance by the Town Council and a warranty has been posted by the developer. If within ninety (90) days of a recommendation from the Planning Commission, the Town Council fails to accept a street by ordinance or deny acceptance by resolution, with reasons for such denial stated, the Administrator may release the surety instrument provided a warranty has been established by the developer.
- C. **Warranty Required.** Streets that are dedicated and accepted by the Town Council into public maintenance shall be under warranty for all defects and failures for a period of two (2) years, commencing from the date the ordinance to accept the street(s) is adopted. The warranty shall be in an amount of not less than ten (10) percent of construction costs and shall be in the form of a letter of credit or cash deposit. The form and sufficiency of the warranty shall be subject to the approval of the Town Council.

### SECTIONS 5.3.1071 through 5.3.1099 Reserved

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# APPENDICES

## DIVISION 1. SUPPLEMENTAL DOCUMENTS AND CERTIFICATIONS

### SECTION 5.3.1100 Supplemental Documents

- A. The attached documents are supplemental to the text of the Atlantic Beach Land Management Ordinance. These documents include:
1. Appendix A: Surety Documents
    - a. Exhibit A1: Application for Posting Letter of Credit
    - b. Exhibit A2: Sample Irrevocable Letter of Credit
    - c. Exhibit A3: Application and Agreement for Posting Cash Deposit
  2. Appendix B: Street Dedication and Acceptance Documents
    - a. Exhibit B1: Sample Deed for Right-of-Way Conveyance
    - b. Exhibit B2: Sample Drainage Easement Conveyance
    - c. Exhibit B3: Certificate of Non-Litigation for Street Dedication
    - d. Exhibit B4: General Joinder and Consent to Dedication
  3. Appendix C: Certifications
    - a. Exhibit C1: Certificate of Accuracy
    - b. Exhibit C2: Certificate of Ownership and Dedication
    - c. Exhibit C3: Certificate of Approval for Streets and other Dedications
    - d. Exhibit C4: Certification of Water and Sewer Availability or Extension
    - e. Exhibit C5: Certificate of Approval for Recording Plat
- B. These document templates are designed to provide guidance to the Planning Commission, Administrator, and developers. These templates provide the basic information requirements and form related to surety instruments, the exhibits required for the dedication of streets, and certifications required prior to the approval of a plat. The commission and/or Administrator may supplement such forms when determined that additional information or exhibits are required to ensure compliance with the provisions of these regulations, to meet the requirements of other applicable statutes, or where the customization of the attached forms would be necessary to address the particulars of a development proposal.
- C. Document templates appearing in Appendix B are related to the dedication of streets and conveyance of real property to the Town of Atlantic Beach. The foregoing should be considered sample documents only and do not alleviate any other requirements/exhibits customary to the conveyance of property or as is otherwise mandated by state law. All documents related to the conveyance of property should be referred to the Town's attorney prior to formal acceptance.

### SECTION 5.3.1101 Supplemental Ordinances

The following ordinances have been adopted separately from this Chapter; however, they have been attached for reference. These ordinances, referenced under Appendix D, include:

1. Ordinance No. \_\_\_ The Atlantic Beach Planning Commission; and
2. Ordinance No. \_\_\_ Atlantic Beach Flood Damage Prevention Ordinance.

# APPENDICES

## APPENDIX A

### Exhibit A1: Application for Posting Letter of Credit

#### Application, Conditions, and Compliance Agreement Posting of Irrevocable Letter of Credit in Lieu of Public Improvement Completion/Acceptance

Name of Owner or Developer: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Address of Owner or Developer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

FAX Number (if available): \_\_\_\_\_

Is there anyone (1) in addition to yourself who may be contacted with respect to this Letter of Credit or the improvements required or covered by this surety?

\_\_\_ Yes (please list below) \_\_\_ No

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

#### Cost Estimate for Improvement

I hereby certify that to the best of my knowledge and belief that the following estimates are accurate and that they have been prepared by a licensed engineer:

Street Construction (include all design elements) \$ \_\_\_\_\_

Storm Water Management (include design and installation): \$ \_\_\_\_\_

Sidewalks (include design and installation): \$ \_\_\_\_\_

Water/Sewer Improvements: \$ \_\_\_\_\_

Fire Hydrants: \$ \_\_\_\_\_

Other (Specify: \_\_\_\_\_): \$ \_\_\_\_\_

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Total: \$ \_\_\_\_\_

Please attach detailed estimates to this form.

I understand and agree that the estimates provided above and attached hereto will be provided to the agency or Town department having inspection and/or approval responsibilities for the respective improvements. The agency or Town department may require monies to be posted in surety which are in excess of those provided above if it is determined that the estimates provided are insufficient to guarantee installation and acceptance.

## **Conditions for Acceptance of Letters of Credit**

### **Responsibility of a Developer in Posting Surety**

I, the owner/developer of the project as indicated above, understand and agree as follows:

1. Prior to the establishment of the letter of credit for my project, the cost estimates, as provided above, will be submitted to and approved by Atlantic Beach Planning Commission [‘commission’] or Administrator [‘Administrator’] as stipulated in the *Town of Atlantic Beach Land Management Ordinance*. The letter of credit will be provided in an amount equal to 125 percent of the approved cost estimates for design and installation.
2. The letter of credit as issued by the bank must be in a format which is approved by the commission (Please see sample format).
3. The letter of credit’s term may not be less than six (6) months nor more than one (1) year. Letters of credit issued by or requiring document presentation at branches or main offices outside of Horry County must contain an automatic extension clause, as provided in the sample format. Letters of credit issued by in-county banks with an in-county place of presentation office may, at the discretion of the lending institution, include the automatic extension clause.

### **Time Limitation and Responsibility to Notify**

The public improvements as provided herein are to be installed and approved within one (1) year of the posting of the letter of credit. In the event that hardship or unforeseen circumstances prevent the installation of improvements within one (1) year, the commission or Administrator may, at its discretion, allow the letter of credit to be extended for an additional term.

Prior to the granting of an extension, the developer and/or owner understand and agree as follows:

1. The owner/developer will notify the Administrator no less than thirty (30) days prior to the expiration of the letter of credit’s term that the public improvements have not been completed and request an extension.
2. The granting of an extension for a term of an additional year may, at the commission’s discretion, be granted administratively. The owner/developer may be required to submit a revised cost estimate and a proposed timeline for project completion. If a revised cost estimate is required, the sum of the letter of credit may be increased to guarantee the installation of all remaining improvements.

## APPENDICES

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3. Letters of credit may not be extended cumulatively beyond twenty four (24) months.
4. When the extension of a letter of credit requires the issuing bank to provide an amended letter of credit, the amended letter of credit must be provided to the Administrator no less than ten (10) days prior to the expiration of the original letter of credit's term. In the event that an amendment is provided less than ten (10) days prior to expiration and said delay results in the preparation or delivery of "failure to perform drafts" by the Town, the owner/developer is responsible to reimburse the Town for all costs associated with the preparation and/or delivery of drafts.

Nothing herein shall be construed as a guarantee or inference that an extension of surety will be automatically granted after a one (1) year period as provided in the land development regulations or limit the ability of the Town to declare the surety in default after the completion date specified in the original letter of credit.

### **Request for Surety Reduction**

The commission or Administrator may, at its discretion, grant reductions in the amount of a letter of credit to reflect progress by an owner/developer in installing required improvements. The owner/developer must provide requests for reduction no less than thirty (30) days prior to the expiration of a letter of credit. Request for reduction may accompany the notification and request for extension as provided above. The owner/developer must provide cost estimates or documentation justifying the reduction.

### **Notification of Improvement Completion and Request For Release**

Once all improvements covered by the letter of credit are installed and are accepted by the Town or responsible agency, the Administrator will release the letter of credit. The owner/developer is responsible for notifying the Administrator of project completion and requesting acceptance of the improvements. Notification should be provided no less than thirty (30) days prior to the expiration of the letter of credit. The acceptance of streets requires action by the commission and Atlantic Beach Town Council. Notification of street completion and requests for acceptance should be submitted no less than ninety (90) days prior to the expiration of the letter of credit. In the event that notification is provided less than ninety (90) days prior to the expiration and said delay results in the preparation or delivery of "failure to perform drafts", the owner/developer is responsible to reimburse the Town for all costs associated with the preparation and/or delivery of drafts. The letter of credit may not be released until the improvements are accepted, a warranty has been established for street improvements (where applicable), and the Administrator provides written notification of completion and acceptance to the issuing bank.

### **The Letter of Credit is Not a Waiver of Liability**

In the event of a failure to perform, default, or failure to extend a letter of credit, the Town reserves the right to take all available legal and administrative actions necessary to compel the completion of the project by the owner/developer, to secure all necessary easements and rights of entry, and/or to recoup any public funds expended by the Town or responsible agencies in the fulfillment of the owner/developer's obligation.

## Compliance Agreement

I, \_\_\_\_\_, as the owner/developer and the provider of the letter of credit have read, understand, and agree to be bound by the conditions as provided herein. I understand and agree that I have been advised that I may forego the requirement to provide a letter of credit by having the required public

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improvements installed and approved prior to the issuance of my building permit and/or the approval of my subdivision plat. I understand and agree that I have been advised that an alternate form of surety, the posting of a cash deposit, is available and that I have voluntarily elected to provide a letter of credit. I understand and agree that my failure to perform the required improvement or comply with the conditions as outlined herein will constitute a violation of *The Town of Atlantic Beach Land Management Ordinance*.

\_\_\_\_\_  
**Developer/Owner Signature**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**Witness Signature**

\_\_\_\_\_  
**DATE**

STATE OF SOUTH CAROLINA     )  
COUNTY OF HORRY             )

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_.

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

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

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## Exhibit A2: Sample Irrevocable Letter of Credit

### Bank Letterhead

**Date:****Letter of Credit No.:****Lender:****Applicant:**

Name of Financial Institution  
C/O (Contact Person)  
Address

Name of Individual or Corporation  
C/O (Contact Person)  
Address

**Beneficiary:****Project Name:**

Town of Atlantic Beach  
717 30<sup>th</sup> Avenue South  
P.O. Box 5285  
Atlantic Beach, SC 29582

**Amount:****Expiration Date:**

Insert Amount of LOC

Insert Expiration Date

Gentlemen:

At the request of (Developer or Developers), d/b/a (Company or Corporation), and for the account of the same, we hereby extend in your favor Irrevocable Letter of Credit No. \_\_\_\_\_ for a sum not to exceed (Amount) (\$ \_\_\_\_\_), available by your draft, payable at sight on us, and accompanied by your statement certifying (Developer or Developers) have defaulted or failed to perform improvements to (Project), as described in the attached estimates, the contents of which are made a part hereof.

Acting through and on behalf of the Town of Atlantic Beach, you will provide us with a signed statement certifying either:

1. The improvements have been timely and satisfactorily completed by (Date, must be ten (10) days prior to expiration of Letter of Credit) and the credit may be released; or
2. The developer has failed to perform or is in default as it relates to the attached estimates of improvements.

All drafts drawn under this Letter of Credit must be marked: "Drawn under (Developer or Developers), d/b/a (Company or Corporation), Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_".

Except as otherwise stated herein, this Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credit (Insert Latest Edition), International Chamber of Commerce Publication Number (Number).

We engage with you that the draft(s) drawn under and in accordance with the terms of this Letter of Credit will be duly honored upon presentation and delivery of documents as specified if presented at this office on or before (date, usually one (1) year from date of issue).

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It is a condition of this credit that it shall be deemed automatically extended, without amendment, for one (1) year from the present or any future expiration date hereof, unless sixty (60) days prior to any such date, we shall send you notice by courier service that we elect not to consider this credit renewed for such additional one (1) year period. {Optional for in-county banks or in-county place of presentation}

(Bank Executive Signature Block)

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## Exhibit A3: Application and Agreement for Posting Cash Deposit

### Application, Conditions, and Compliance Agreement Posting of Cash Deposit in Lieu of Public Improvement Completion/Acceptance

Name of Owner or Developer: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Address of Owner or Developer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone (1) Number: \_\_\_\_\_

FAX Number (if available): \_\_\_\_\_

Is there anyone (1) in addition to yourself who may be contacted with respect to this cash deposit or the improvements required or covered by this surety?

\_\_\_ Yes (please list below) \_\_\_ No

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone (1) Number: \_\_\_\_\_

#### **Cost Estimate for Improvement**

I hereby certify that to the best of my knowledge and belief that the following estimates are accurate and that they have been prepared by a licensed engineer:

Street Construction (include all design elements) \$ \_\_\_\_\_

Storm Water Management (include design and installation): \$ \_\_\_\_\_

Sidewalks (include design and installation): \$ \_\_\_\_\_

Water/Sewer Improvements: \$ \_\_\_\_\_

Fire Hydrants: \$ \_\_\_\_\_

Other (Specify: \_\_\_\_\_): \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

Please attach detailed estimates to this form.

## **APPENDICES**

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I understand and agree that the estimates provided above and attached hereto will be provided to the agency or Town department having inspection and/or approval responsibilities for the respective improvements. The agency or Town department may require monies to be posted in surety which are in excess of those provided above if it is determined that the estimates provided are insufficient to guarantee installation and acceptance.

### **Conditions for Acceptance of Cash Deposit**

#### **General Stipulations**

I, the owner/developer of the project as indicated above, understand and agree as follows:

1. Prior to providing a cash deposit for my project, the cost estimates, as provided above, will be submitted to and approved by The Town of Atlantic Beach Planning Commission [‘commission’] or Administrator [‘Administrator’] as stipulated in the *Town of Atlantic Beach Land Management Ordinance*. The cash deposit will be provided in an amount equal to 125 percent of the approved cost estimates for design and installation.
2. The cash deposit to be provided by me (us) will be in the form of a cashier’s check, payable to the Town of Atlantic Beach, with an expiration of not less than six (6) months from the date of issue.
3. The proceeds from the cash deposit (cashier’s check) may be deposited by the Town in an interest bearing account in favor of the Town of Atlantic Beach (surety account). The proceeds from the cashier’s check or subsequent surety account may be used by the Town to install required improvements in the event that I (we) fail to install and have accepted the required improvements by (Insert date, not to exceed one (1) year of posting of the surety).
4. Interest accrued on surety account funds will be included in the funds released by the Town upon the owner/developer’s completion and the Town’s acceptance of the required improvements covered herein. The owner/developer shall assume any tax liability resulting from any interest accrued on money held under this agreement.

#### **Time Limitation and Responsibility to Notify**

The public improvements as provided herein are to be installed and approved within one (1) year of the posting of the surety. In the event that hardship or unforeseen circumstances prevent the installation of improvements within one (1) year, the commission or Administrator may, at its discretion, allow the surety and this agreement to be extended for an additional one (1) year term (Please see Section 5.3.1067).

Prior to the granting of an extension, the developer and/or owner understand and agree as follows:

1. The owner/developer will notify the Administrator no less than thirty (30) days prior to the expiration of this agreement’s term that the public improvements have not been completed and request an extension.
2. The granting of an extension for a term of an additional year may, at the commission’s discretion, be granted administratively. The owner/developer may be required to submit a revised cost estimate and a proposed timeline for project completion. If a revised cost estimate is required, the sum of the cash deposit may be increased to guarantee the installation of all remaining improvements.
3. The date specified for completion and acceptance of the improvements may not be extended cumulatively beyond twenty four (24) months.







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## Exhibit B3: Certification of Non-Litigation for Street Dedication

### TOWN OF ATLANTIC BEACH CERTIFICATION OF NON-LITIGATION

I, (We), hereby certify that there are no pending or threatened actions at law that will affect the fee simple dedication of the below project. I, (We), further certify that all contractors, subcontractors, material suppliers, engineers, surveyors, attorneys, or other persons, firms, or corporations retained for the purpose of designing, planning, and constructing the project have been paid in full.

Project and Street Name(s): \_\_\_\_\_

\_\_\_\_\_  
Witness print name

\_\_\_\_\_  
Developer print name

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Developer signature

\_\_\_\_\_  
Witness print name

\_\_\_\_\_  
General Contractor print name

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
General Contractor signature

\_\_\_\_\_  
Witness print name

\_\_\_\_\_  
Engineer print name

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Engineer signature

STATE OF SOUTH CAROLINA    )  
  )  
COUNTY OF HORRY            )

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_



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## Exhibit C2: Certificate of Ownership and Dedication

The undersigned hereby acknowledge that I am (we are) the owner(s) of the property shown and described hereon and that I (we) adopt this (plan of development/plat) with my (our) free consent and that I (we) hereby dedicate all items as specifically shown or indicated on said plat.

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

## Exhibit C3: Certificate of Approval for Streets and Other Dedication

I hereby certify that to the best of my knowledge, information, and belief the street(s) and other illustrated improvements, to be dedication to the Town of Atlantic Beach, have been installed in accordance with the requirements of the Town of Atlantic Beach Development Regulations or a financial guarantee has been provided to the Town to guarantee the acceptable and timely installation of the street(s) and/or other public improvements.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Public Works Director or Town  
Designated Engineer**

\_\_\_\_\_  
**S.C. Registration No. and Seal  
(when applicable)**

## Exhibit C4: Certificate of Water and Sewer Availability or Extension

I hereby certify that to the best of my knowledge and belief (1) the (insert water and/or sewer lines) have been installed for the above subdivision or development in an acceptable manner and in accordance with all applicable specifications or (2) a financial guarantee has been provided to the Town to guarantee the acceptable and timely installation of the (water and/or sewer) improvements.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**North Myrtle Beach Water & Sewer or  
other Applicable Agency**

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## Exhibit C5: Certificate of Approval for Recording Plat

I hereby certify that the (development plan/plat) shown hereon has been found to comply with the Town of Atlantic Beach Land Management Ordinance and that it has been approved for recording in the Office of the Register of Deeds.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Planning Commission Chairman or  
Administrator

## APPENDIX D SUPPLEMENTAL ORDINANCES

Exhibit D1: Ordinance No. \_\_\_\_\_

Exhibit D2: Ordinance No. \_\_\_\_\_

# Exhibit D2. FLOOD DAMAGE PREVENTION ORDINANCE

Town of Atlantic Beach  
Ordinance No. 7-2019

STATE OF SOUTH CAROLINA)  
COUNTY OF HORRY )  
TOWN OF ATLANTIC BEACH)

## AN ORDINANCE TO ESTABLISH A FLOOD DAMAGE PREVENTION ORDINANCE

**WHEREAS**, the Town of Atlantic Beach recognizes the importance of protecting life and property from the perils of flooding; and

**WHEREAS**, the Town of Atlantic Beach is a member of the National Flood Insurance program and has adopted a flood damage prevention ordinance; and

**WHEREAS**, the Town of Atlantic has determined that it is in the public interest to re-enact the existing ordinance with certain updates and amendments;

**NOW, THEREFORE**, be it enacted and ordained by the governing body of the Town of Atlantic Beach, in Council duly assembled, that the Town of Atlantic Beach Code is amended by adding:

## ARTICLE I. GENERAL PROVISIONS

### SECTION 1 Statutory Authorization

The Legislature of the State of South Carolina has in SC Code of Laws, Title 5 and Title 6, and amendments thereto, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of the Town of Atlantic Beach, South Carolina, does ordain as follows:

### SECTION 2 Findings of Fact

The Special Flood Hazard Areas of the Town of Atlantic Beach are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of residents. Furthermore, these flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

### SECTION 3 Statement Of Purpose & Objectives

It is the purpose of this ordinance to protect human life and health, minimize property damage, and encourage appropriate construction practices to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in the floodplain by requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Uses of the floodplain which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion are restricted or prohibited. These provisions attempt to control the alteration of natural floodplains, stream channels, and natural protective barriers which are critical in the accommodation of flood waters, and

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control filling, grading, dredging, and other development which may increase flood damage or erosion. Additionally, the ordinance regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

### **SECTION 4 Lands to Which this Ordinance Applies**

This ordinance shall apply to all areas of special flood hazard within the Town of Atlantic Beach as identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study, dated September 17, 2003, with accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this ordinance.

Upon annexation any special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for the unincorporated areas of Horry County, with accompanying maps and other data are adopted by reference and declared part of this ordinance.

### **SECTION 5 Establishment of Development Permit**

A development permit in conformance with the provisions of this ordinance shall be required prior to the commencement of any developmental activities.

### **SECTION 6 Compliance**

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### **SECTION 7 Interpretation**

In the interpretation and application of this ordinance, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under State law. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or overlap. Whichever imposes the more stringent restrictions, shall prevail.

### **SECTION 8 Partial Invalidity and Severability**

If any part of this Ordinance is declared invalid, the remainder of the Ordinance shall not be affected and shall remain in force.

### **SECTION 9 Warning and Disclaimer of Liability**

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

### **SECTION 10 Penalties for Violation**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions, shall

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constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, and in addition, shall pay all cost and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Atlantic Beach from taking such other lawful actions as is necessary to prevent or remedy any violation.

### SECTIONS 11 through 19 Reserved

## ARTICLE II. DEFINITIONS

### SECTION 20 General

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. **Accessory Structure (Appurtenant Structure)** – structures located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have a minimal flood damage potential. Garages, carports, and storage sheds are common urban accessory structures while pole barns and hay sheds qualify as accessory structures on farms.
2. **Addition (to an Existing Building)** – an extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction regardless as to whether the addition is a substantial improvement or not. Where a firewall or load – bearing wall exists between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.
3. **Agricultural Structure** – a structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Agricultural structures are not exempt from the provisions of this ordinance.
4. **Appeal** – a request for a review of the Planning Administrator’s interpretation of any provision of this ordinance or a request for a variance.
5. **Area of Shallow Flooding** – a designated AO or VO Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flows may be evident.
6. **Area of Special Flood Hazard** – the land in the floodplain within a community subject to a one (1) percent or greater chance of being equaled or exceeded in any given year.
7. **Base Flood** – the flood having a one percent chance of being equaled or exceeded in any given year.
8. **Basement** – means any enclosed area of a building that is below grade on all sides.
9. **Building** – see “Structure.”

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10. **Coastal High Hazard Area** – an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to velocity wave action from storms or seismic sources.
11. **Critical Development** – development critical to the community’s public health and safety, essential to the orderly functioning of a community, stores or produces highly volatile, toxic, or water –reactive materials, or houses occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical development include jails, hospitals, schools, fire stations, nursing homes, wastewater treatment facilities, water plants, and gas/oil/propane storage facilities.
12. **Development** – any man –made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.
13. **Elevated Building** – a non –basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, columns piers, or shear walls parallel to the flow of water.
14. **Executive Order 11988 (Floodplain Management)** – Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
15. **Existing Construction** – means structures for which the start of construction commenced before the effective date of FIRM, May 15, 1978 in order to determine rates.
16. **Existing Manufactured Home Park or Subdivision** – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed before the effective date of the floodplain management regulations adopted by a community (before the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which established the area of special flood hazard) or May 15, 1978.
17. **Expansion to an Existing Manufactured Home Park or Subdivision** – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).
18. **Flood Hazard Boundary Map (FHBM)** – an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.
19. **Flood Insurance Rate Map (FIRM)** – an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
20. **Flood Insurance Study** – the official report provided by the Federal Emergency Management Agency which contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.
21. **Flood –Resistant Material** – any building material capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage-that requires more than low –cost cosmetic repair. Any material that is water –soluble or is not resistant to alkali or acid in water,

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including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumber is acceptable flooring material. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable, are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2 *Flood Damage –Resistant Materials*, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

22. **Floodway** – the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base of the flood without cumulatively increasing the water surface elevation by more than one (1) foot.
23. **Freeboard** – a factor of safety usually expressed in feet above a flood level for purpose of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
24. **Functionally Dependent Use** – a use which cannot be utilized for its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, ship building, and ship repair facilities but does not include longterm storage or related manufacturing facilities.
25. **Highest Adjacent Grade** – the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.
26. **Historic Structure** – any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior (DOI) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (1) by an approved State program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs. Some structures or districts listed on the State or local inventories **MAY NOT** be "Historic" as cited above, but have been included on the inventories because it was believed that the structures or districts have the *potential* for meeting the "Historic" structure criteria of the DOI. In order for these structures to meet NFIP historic structure criteria, it must be demonstrated and evidenced that the South Carolina Department of Archives and History has *individually determined* that the structure or district meets DOI historic structure criteria.
27. **Increased Cost of Compliance (ICC)** – applies to all new and renewed flood insurance policies effective on and after June 1, 1997. The NFIP shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under Section 1316 of the National Flood Insurance Act of 1968. It provides coverage for the payment of a claim to help pay for the cost to comply with State or community floodplain management laws or ordinances after a flood event in which a building has been declared substantially or repetitively damaged.
28. **Limited Storage** – an area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant or breakaway material, void of utilities except for essential lighting and cannot be

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- temperature controlled. If the area is located below the base flood elevation in an A, AE, A1 –A30, V, VE, or V1 –V30 zone, it must meet the requirements of Section 41 of this ordinance.
29. **Lowest Floor** – means the lowest floor of the lowest enclosed area (including basement). Any unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non –elevation design requirements of this ordinance.
  30. **Manufactured Home** – a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”
  31. **Manufactured Home Park or Subdivision** – a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
  32. **Mean Sea Level** – means, for the purpose of this ordinance, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which the base flood elevations shown on a community’s Flood Insurance Rate Maps (FIRM) are shown.
  33. **National Geodetic Vertical Datum (NGVD) of 1929**– as corrected in 1929, elevation reference points set by National Geodetic Survey based on mean sea level.
  34. **North American Vertical Datum (NAVD) of 1988** – vertical control, as corrected in 1988, used as the reference datum on Flood Insurance Rate Maps.
  35. **New Construction** – structure for which the “start of construction” commenced on or after (the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard.) or May 15, 1978. The term also includes any subsequent improvements to such structure.
  36. **New Manufactured Home Park or Subdivision** – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after October 6, 2003, the effective date of floodplain management regulations adopted by a community.
  37. **Primary Frontal Dune** – a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes subject to erosion and overtopping from high tides and waves during coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
  38. **Recreational Vehicle** – a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self –propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
  39. **Repetitive Loss** – a building covered by flood insurance that has incurred flood –related damages on two (2) occasions during a ten (10) year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

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40. **Section 1316 of the National Flood Insurance Act of 1968** – the act provides that no new flood insurance shall be provided for any property found by the Federal Emergency Management Agency to have been declared by a state or local authority to be in violation of state or local ordinances.
41. **Stable Natural Vegetation** – the first place on the oceanfront where plants such as sea oats hold sand in place.
42. **Start of Construction** – for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97 –348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
43. **Structure** – a walled and roofed building or manufactured home, including a gas or liquid storage tank that is principally above ground.
44. **Substantial Damage** – damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Such repairs may be undertaken successively and their costs counted cumulatively. Please refer to the definition of "substantial improvement."
45. **Substantial Improvement** – any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not, however, include:
  - a. Improvement projects to a structure in order to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
  - b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
  - c. Permits shall be cumulative for a period of five (5) years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether substantial improvement will occur.
46. **Substantially Improved Existing Manufactured Home Parks or Subdivision** – where the repair, reconstruction, rehabilitation or improvement of the streets, utilities, and slabs equals or exceeds 50 percent of the value of the streets, utilities, and slabs before the repair, reconstruction or improvement commenced.
47. **Variance** – means a grant of relief from the terms of this ordinance.

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48. **Violation** – the failure of a structure or other development to be fully compliant with these regulations.

### SECTIONS 21 through 29 Reserved

## ARTICLE III. ADMINISTRATION

### SECTION 30 Designation of Flood Plain Management, Code Enforcement, and Building Inspectors

The Town Manager is hereby appointed to administer and implement the provisions of this ordinance. Under the current administrative structure as approved by the Town Council there are five (5) departments including the Planning Department. The Town Manager's designee, the Planning Administrator, who is responsible for the Planning Department, shall be responsible for flood plain management, code enforcement and building inspection. Building inspectors shall be contract personnel.

### SECTION 31 Adoption of Letter of Map Revisions (LOMR)

All LOMRs that are issued in the areas identified in Section 3 of this ordinance are hereby adopted.

### SECTION 32 Development Permit and Certification Requirements

- A. **Development Permit** – Application for a development permit shall be made to the Planning Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, the location of fill materials, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
1. A plot plan that shows the 100 –year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or when the floodplain is identified pursuant to either the duties and responsibilities of the local floodplain administrator of Section 33 or the standards for subdivision proposals of Section 41L and the standards for streams without estimated base flood elevations and floodways of Section 42. The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant to either the duties or responsibilities of the local floodplain administrator of Section 33 or the standards for subdivision proposals of Section 41L and the standards for streams without estimated base flood elevations and floodways of Section 42.
  2. Where base flood elevation data is provided as set forth in Section 3 or the duties and responsibilities of the local floodplain administrator of Section 33, the application for a development permit within the flood hazard area shall show:
    - a. The elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures; and,

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- b. If the structure will be floodproofed in accordance with the Non –Residential Construction requirements of Section 41B the elevation (in relation to mean sea level) to which the structure will be floodproofed.
3. Where base flood elevation data is not provided as set forth in Section 3 or the duties and responsibilities of the local floodplain administrator of Section 33, then the provisions in the standards for streams without estimated base flood elevations and floodways of Section 42 must be met.
4. Alteration of Watercourse – Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation, an engineering study to demonstrate that the flood – carrying capacity of the altered or relocated watercourse is maintained and a map showing the location of the proposed watercourse alteration or relocation.

### B. Certifications

1. Floodproofing Certification – When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non –residential, floodproofed structure meets the floodproofing criteria in the non –residential construction requirements of Section 41B and Section 44B.
2. Certification During Construction – A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local floodplain administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local floodplain administrator shall review the floor elevation survey data submitted. The permit holder immediately, and prior to further progressive work being permitted to proceed, shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop –work order for the project.
3. V –Zone Certification – When a structure is located in Zones V, VE, or V1 –30, certification shall be provided from a registered professional engineer or architect, separate from submitted plans, that new construction and substantial improvement meets the criteria for the coastal high hazard areas outlined in Section 45.
4. As –built Certification – Upon completion of the development, a registered professional engineer, land surveyor or architect, in accordance with South Carolina law, shall certify according to the requirements of Section 32B that the development is built in accordance with the submitted plans and previous pre –development certifications.

### SECTION 33 Duties and Responsibilities of the Planning Administrator

- A. **Permit Review** – Review all development permits to assure that the permit requirements of this ordinance have been satisfied.

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- B. Requirement of Federal and/or State Permits** – Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.
- C. Watercourse Alterations** –
1. Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water and Conservation Division, State Coordinator for Flood Mitigation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  2. In addition to the notifications required for watercourse alterations per Section 33C, written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood –carrying capacity is maintained. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.
  3. If the proposed project will modify the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to the start of construction.
  4. Within sixty (60) days of completion of an alteration of a watercourse, referenced in the certification requirements of Section 32B, the applicant shall submit as –built certification by a registered professional engineer to the Federal Emergency Management Agency.
- D. Floodway Encroachments** – Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Section 41E are met.
- E. Adjoining Floodplains** – Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood –related erosion areas in order to prevent aggravation of existing hazards.
- F. Notifying Adjacent Communities** – Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood –related erosion hazards.
- G. Certification Requirements** –
1. Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in Section 32B or the coastal high hazard area requirements outlined in Section 45E.
  2. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in Section 32B.

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3. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in Section 41B.
  4. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in the coastal high hazard area requirements outlined in Sections 45D through 45H of this ordinance.
- H. **Map Interpretation** – Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.
- I. **Prevailing Authority** – Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in Section 41G2.
- J. **Use of Best Available Data** – When base flood elevation data and floodway data has not been provided in accordance with Section 3, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to the standards for subdivision proposals outlined in Section 41L in order to administer the provisions of this ordinance. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.
- K. **Special Flood Hazard Area/Topographic Boundaries Conflict** – When the exact location of boundaries of the area’s special flood hazards conflict with the current, natural topography information at the site, site information takes precedence when the lowest adjacent grade is at or above the BFE. Additionally, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. The local floodplain administrator in the permit file will then maintain a copy of the Letter of Map Amendment issued from FEMA.
- L. **On-Site Inspections** – Make on-site inspections of projects in accordance with the administrative procedures outlined in Section 34A.
- M. **Administrative Notices** – Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in Section 34.
- N. **Records Maintenance** – Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
- O. **Annexations and Detachments** – Notify the South Carolina Department of Natural Resources, Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program within six (6) months, of any annexations or detachments that include special flood hazard areas.
- P. **Federally Funded Development** – The President issued Executive Order 11988, Floodplain Management (E.O. 11988) in May of 1977 directing federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments

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must go through an eight –step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.

- Q. **Substantial Damage Determination** – Perform an assessment of damage from any origin to the structure using FEMA’s Residential Substantial Damage Estimator (RSDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.
- R. **Substantial Improvement Determinations** – Perform an assessment of permit applications for improvements or repairs to be made to a building or structure that equals or exceeds 50 percent of the market value of the structure before the start of construction. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five (5) years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether a substantial improvement will occur.

The market values shall be determined by one of the following methods:

1. The current assessed building value as determined by the county’s assessor’s office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past six (6) months.
2. One (1) or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre –improvement condition, less the cost of site improvements and depreciation for functionality and obsolescence.
3. Real Estate purchase contract within six (6) months prior to the date of the application for a permit.

### SECTION 34 Administrative Procedures

- A. **Inspections of Work in Progress** – As the work pursuant to a permit progresses, the local floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- B. **Stop –Work Orders** – Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop –work order shall be in writing and directed to the person doing the work. The stop –work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop –work order constitutes a misdemeanor.
- C. **Revocation of Permits** – The local floodplain administrator may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

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- D. **Periodic Inspections** – The local floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- E. **Violations to be Corrected** – When the local floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property in question.
- F. **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give him or her written notice, by certified or registered mail to the last known address or by personal service, that:
1. The building or property is in violation of the Town of Atlantic Beach’s Flood Damage Prevention Ordinance;
  2. A hearing will be held before the local floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
  3. Following the hearing, the local floodplain administrator may issue such order to alter, vacate, demolish the building, or remove fill as appears appropriate.
- G. **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than sixty (60) days, the floodplain administrator may prescribe. Provided that where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- H. **Appeal:** Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- I. **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.
- J. **Denial of Flood Insurance under the NFIP:** If a structure is declared in violation of this ordinance, and after all other penalties are exhausted to achieve compliance with this ordinance, then the local floodplain administrator shall notify the Federal Emergency Management Agency (FEMA) to initiate Section 1316 of the National Flood Insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with the ordinance. Once a violation has been remedied, the local floodplain administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.

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K. The following documents are incorporated by reference and may be used by the local floodplain administrator to provide further guidance and interpretation of this ordinance as found on FEMA's website at [www.fema.gov](http://www.fema.gov):

1. FEMA 55 Coastal Construction Manual
2. All FEMA Technical Bulletins
3. All FEMA Floodplain Management Bulletins
4. FEMA 348 Protecting Building Utilities from Flood Damage
5. FEMA 499 Home Builder's Guide to Coastal Construction Technical Fact Sheets

### SECTIONS 35 through 39 Reserved

## ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

### SECTION 40 General Standards

Development may not occur in the Special Flood Hazard Area (SFHA) where alternative locations exist due to the inherent hazards and risks involved. Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the SFHA and that encroachments onto the SFHA are minimized. In all areas of special flood hazard the following provisions are required:

- A. **Reasonably Safe from Flooding** – Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- B. **Anchoring** – All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- C. **Flood Resistant Materials and Equipment** – All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with Technical Bulletin 2, *Flood Damage –Resistant Materials Requirements*, dated 8/08, and available from the Federal Emergency Management Agency (FEMA).
- D. **Minimize Flood Damage** – All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. **Critical Development** – shall be elevated to the 500 year flood elevation or be elevated to the highest known historical flood elevation (where records are available), whichever is greater. If no data exists establishing the 500 year flood elevation or the highest known historical flood elevation, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates 500 year flood elevation data.
- F. **Utilities** – Electrical, heating, ventilation, plumbing, air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of the base flood plus three (3) feet.
- G. **Water Supply Systems** – All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

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- H. **Sanitary Sewage Systems** – New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. On –site waste disposal systems shall be located and constructed to avoid impairment to or contamination from them during flooding.
- I. **Gas or Liquid Storage Tanks** – All gas or liquid storage tanks, either located above ground or buried, shall be anchored to prevent flotation and lateral movement resulting from hydrodynamic and hydrostatic loads.
- J. **Alteration, Repair, Reconstruction, or Improvements** – Any alteration, repair, reconstruction, or improvement to a structure that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance. This includes post –FIRM development and structures.
- K. **Non –Conforming Buildings or Uses** – Non –conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair, reconstruction, or replacement of an existing building or structure located totally or partially within the floodway, as long as the bulk of the building or structure below base flood elevation in the floodway is not increased and that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- L. **Americans with Disabilities Act (ADA)** – A building must meet the specific standards for floodplain construction outlined in Section 41 as well as any applicable ADA requirements. The ADA is not justification for issuing a variance or otherwise waiving these requirements. Also, the cost of improvements required to meet the ADA provisions shall be included in the costs of the improvements for calculating substantial improvement.

### SECTION 41 Specific Standards

In all areas of special flood hazard (Zones A, AE, AH, AO, A1 –30, V, and VE) where base flood elevation data has been provided, as set forth in Section 31 or outlined in the Duties and Responsibilities of the local floodplain administrator (Section 33), the following provisions are required:

#### A. Residential Construction

- 1. New construction and substantial improvement of any residential structure (or manufactured home) shall have the lowest floor elevated no lower than three (3) feet above the base flood elevation. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings in Section 41D.

#### B. Non –Residential Construction

- 1. New construction and substantial improvement of any commercial, industrial, or non –residential building (including manufactured home) shall have the lowest floor elevated no lower than three (3) feet above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in Section 41D. No basements are permitted. Buildings located in all A –zones may be flood –proofed in lieu of being elevated provided that all areas of the building below the required elevation are water tight

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with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

2. A registered, professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in the floodproofing certification requirements in Section 32B1. A variance may be considered for wet –floodproofing agricultural structures in accordance with the criteria outlined in Section 50D. Agricultural structures not meeting the criteria of Section 50D must meet the non –residential construction standards and all other applicable provisions of this ordinance. Structures that are floodproofed are required to have an approved maintenance plan with an annual exercise. The local floodplain administrator must approve the maintenance plan and notification of the annual exercise shall be provided to it.

### C. Manufactured Homes

1. Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision, in a new manufactured home park or sub –division, in an expansion to an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than three (3) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
2. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions for residential construction in Section 41A of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower than three (3) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
3. For the purpose of this requirement, manufactured homes shall be anchored to resist flotation, collapse, and lateral movement in accordance with Section 40 –29 –10 of the South Carolina Manufactured Housing Board Regulations, as amended. Additionally, when the elevation requirement would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
4. An evacuation plan must be developed for the evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood –prone areas. This plan shall be filed with and approved by the local floodplain administrator and the local Emergency Preparedness Coordinator.

### D. Elevated Buildings – New construction and substantial improvements of elevated buildings that include fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding shall be designed to preclude finished space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

1. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed all of the following minimum criteria:

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- a. Provide a minimum of two (2) openings on different walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
  - b. The bottom of each opening must be no more than one (1) foot above the higher of the interior of exterior grade immediately under the opening;
  - c. Only the portions of openings that are below the base flood elevation (BFE) can be counted towards the required net open area.
  - d. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - e. Fill placed around foundation walls must be graded so that the grade inside the enclosed area is equal to or higher than the adjacent grade outside the building on at least one (1) side of the building.
2. Hazardous Velocities – Hydrodynamic pressure must be considered in the design of any foundation system where velocity waters or the potential for debris flow exists. If flood velocities are excessive (greater than five (5) feet per second), foundation systems other than solid foundation walls should be considered so that obstructions to damaging flood flows are minimized.
3. Enclosures Below Lowest Floor –
- a. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
  - b. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, must be void of utilities except for essential lighting as required for safety, and cannot be temperature controlled.
  - c. One (1) wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in the specific standards outlined in Sections 41A through 41D.
  - d. All construction materials below the required lowest floor elevation specified in the specific standards outlined in Sections 41A through 41D should be of flood resistant materials.
- E. **Floodways** – Located within areas of special flood hazard established in Section 3 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:
1. No encroachments, including fill, new construction, substantial improvements, additions, and other developments shall be permitted unless:
    - a. It has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local floodplain administrator.
    - b. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision must be obtained upon completion of the proposed development.

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2. If Section 41E1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV.
  3. No manufactured homes shall be permitted except in an existing manufactured homes park or subdivision. A replacement manufactured home park may be placed on a lot in an existing manufactured home park or subdivision provided in the anchoring and elevation standards of Section 41C and the encroachment standards of Section 41E1 are met.
  4. Permissible uses within floodways may include: general farming, pastures, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Lawns, gardens, play areas, picnic grounds, and hiking and horsebackriding trails are acceptable uses provided that they do not employ structures or fill. Substantial development of a permissible use may require a no –impact certification. The uses listed in this subsection are permissible only if and to the extent that they do not cause any increase in base flood elevations or changes to the floodway configuration.
- F. **Requirements for Recreational Vehicles** – Recreational vehicles placed on sites within AE zones and within coastal high hazard areas on the city's flood insurance rate map shall be on the site for fewer than 180 consecutive days and be ready for highway use. A recreational vehicle is ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of Section 41D, above.
- G. **Map Maintenance Activities** – The National Flood Insurance Program (NFIP) requires flood data to be reviewed and approved by FEMA. This ensures that flood maps, studies, and other data identified in Section 3 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data. The following map maintenance activities are identified:
1. Requirement to Submit New Technical Data
    - a. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical or scientific data reflecting such changes be submitted to FEMA as soon as practicable, but no later than six (6) months of the date such information becomes available. These development proposals include but are not limited to:
      - (1) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
      - (2) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
      - (3) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
      - (4) Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 42A.
    - b. It is the responsibility of the applicant to have technical data, required in accordance with Section 41G, prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall also be the responsibility of the applicant.

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- c. The local floodplain administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
  - (1) Proposed floodway encroachments that increase the base flood elevation; and
  - (2) Proposed development which increases the base flood elevation by more than one (1) foot in areas where FEMA has provided base flood elevations but no floodway.
- d. Floodplain development permits issued by the local floodplain administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 41G.
2. Right to Submit New Technical Data – The floodplain administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the local jurisdiction and may be submitted at any time.

### H. Accessory Structures

1. A detached accessory structure or garage, the cost of which is greater than \$3,000, must comply with the requirements as outlined in FEMA's Technical Bulletin 7 –93 Wet Floodproofing Requirements or be elevated in accordance with Section 41A and Section 41D or dry floodproofed in accordance with Section 41B.
2. If accessory structures of \$3,000 or less are to be placed in the floodplain, the following criteria shall be met:
  - a. Accessory structures shall not be used for any uses other than the parking of vehicles and storage;
  - b. Accessory structures shall be designed to have low flood damage potential;
  - c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - d. Accessory structures shall be firmly anchored to prevent flotation, collapse and lateral movement of the structure;
  - e. Service facilities such as electrical and heating equipment shall be installed in accordance with Section 40F;
  - f. Openings to relieve hydrostatic pressure during a flood shall be provided below base flood elevation in conformance with Section 41D1; and,
  - g. Accessory structures shall be built with flood resistance materials in accordance with Technical Bulletin 2, Flood Damage –Resistant Materials Requirements, dated 8/08, and available from the Federal Emergency Management Agency. Class 4 and 5 materials, referenced therein, are acceptable flood –resistant materials.
- I. **Swimming Pool Utility Equipment Rooms** – If the building cannot be built at or above the BFE, because of functionality of the equipment then a structure to house the utilities for the pool may be built below the BFE with the following provisions:

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1. Meet the requirements for accessory structures in Section 41H.
2. The utilities must be anchored to prevent flotation and shall be designed to prevent water from entering or accumulating within the components during conditions of the base flood.

### **J. Elevators**

1. Install a float switch system or another system that provides the same level of safety necessary for all elevators where there is a potential for the elevator cab to descend below the BFE during a flood per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.
2. All equipment that may have to be installed below the BFE such as counter weight roller guides, compensation cable and pulleys, and oil buffers for traction elevators and the jack assembly for a hydraulic elevator must be constructed using flood-resistant materials where possible per FEMA's Technical Bulletin 4-93 Elevator Installation for Buildings Located in Special Flood Hazard Areas.

### **K. Fill** – An applicant shall demonstrate that fill is the only alternative to raising the building to meet the residential and non-residential construction requirements of Section 41A or Section 41B, and that the amount of fill used will not affect the flood storage capacity or adversely affect adjacent properties. The following provisions shall apply to all fill placed in the special flood hazard area:

1. Fill may not be placed in the floodway unless it is in accordance with the requirements in Section 41E1.
2. Fill may not be placed in tidal or non-tidal wetlands without the required state and federal permits.
3. Fill must consist of soil and rock materials only. A registered professional geotechnical engineer may use dredged material as fill only upon certification of suitability. Landfills, rubble fills, dumps, and sanitary fills are not permitted in the floodplain.
4. Fill used to support structures must comply with ASTM Standard D-698, and its suitability to support structures certified by a registered, professional engineer.
5. Fill slopes shall be no greater than two (2) horizontal to one (1) vertical. Flatter slopes may be required where velocities may result in erosion.
6. The use of fill shall not increase flooding or cause drainage problems on neighboring properties.
7. Fill may not be used for structural support in the coastal high hazard areas.
8. Will meet the requirements of FEMA Technical Bulletin 10-01, Ensuring That Structures Built On Fill in or Near Special Flood Hazard Areas Are Reasonable Safe from Flooding.

### **L. Standards for Subdivision Proposals and Other Development**

1. All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
2. All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

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3. All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.
4. The applicant shall meet the requirement to submit technical data to FEMA in Section 41G when a hydrologic and hydraulic analysis is completed that generates base flood elevations.

### SECTION 42 Standards for Streams without Established Base Flood Elevation and/or Floodways

Located within the areas of special flood hazard established in Section 4, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

- A. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least fifty (50) lots or five (5) acres, whichever is less.
- B. No encroachments, including fill, new construction, substantial improvements and new development shall be permitted within 100 feet of the stream bank unless certification, with supporting technical data by a registered professional engineer, is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- C. If Section 42A is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Article IV and shall be elevated or floodproofed in accordance with elevations established in accordance with Section 34K.
- D. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data. Refer to FEMA Floodplain Management Technical Bulletin 1 –98 Use of Flood Insurance Study (FIS) Data as Available Data. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.
- E. When base flood elevation (BFE) data is not available from a federal, state, or other source one (1) of the following methods may be used to determine a BFE For further information regarding the methods for determining BFEs listed below, refer to FEMA’s manual Managing Floodplain Development in Approximate Zone A Areas:
  1. Contour Interpolation
    - a. Superimpose approximate Zone A boundaries onto a topographic map and estimate a BFE.
    - b. Add one –half of the contour interval of the topographic map that is used to the BFE.
  2. Data Extrapolation – A BFE can be determined if a site within 500 feet upstream of a reach of a stream reach for which a 100 –year profile has been computed by detailed methods, and the floodplain and channel bottom slope characteristics are relatively similar to the downstream reaches. No hydraulic structures shall be present.
  3. Hydrologic and Hydraulic Calculations – Perform hydrologic and hydraulic calculations to determine BFEs using FEMA approved methods and software.

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### **SECTION 43 Standards for Streams with Established Base Flood Elevations but without Floodways**

Along rivers and streams where Base Flood Elevation (BFE) data is provided but no floodway is identified for a Special Flood Hazard Area on the FIRM or in the FIS, no encroachments including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

### **SECTION 44 Standards for Areas of Shallow Flooding (AO Zones)**

Located within the areas of special flood hazard established in Section 4, are areas designated as shallow flooding areas. These areas have special flood hazards associated with flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- A. All new construction and substantial improvements of residential structures shall have the lowest floor, elevated to at least as high as the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least two (2) feet above the highest adjacent grade.
- B. All new construction and substantial improvements of non –residential structures shall:
  1. Have the lowest floor elevated to at least as high as the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor shall be elevated at least two (2) feet above the highest adjacent grade; or,
  2. Be completely flood –proofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Certification is required as stated in Section 32.
- C. All structures on slopes must have drainage paths around them to guide water away from the structure.

### **SECTION 45 Coastal High Hazard Areas (V –Zones)**

Located within the areas of special flood hazard established in Section 4 or Section 34K are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash. The following provisions shall apply within such areas:

- A. All new construction and substantial improvements shall be located landward of the reach of mean high tide, first line of stable natural vegetation and comply with all applicable Department of Health and Environmental Control (DHEC) Ocean and Coastal Resource Management (OCRM) setback requirements.
- B. All new construction and substantial improvements shall be elevated so that the bottom of the lowest supporting horizontal structural member (excluding pilings or columns) of the lowest floor is located no lower than three (3) feet above the base flood elevation.

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- C. All buildings or structures shall be securely anchored on pilings or columns, extending vertically below a grade of sufficient depth and the zone of potential scour, and securely anchored to the subsoil strata.
- D. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, lateral movement and scour due to the effect of wind and water loads acting simultaneously on all building components.
- E. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsections C, D, F, and J of Section 45 of this ordinance.
- F. There shall be no fill used as structural support. Non –compacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Only beach compatible sand may be used. The local floodplain administrator shall approve design plans for landscaping/ aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist that demonstrates that the following factors have been fully considered:
  - 1. Particle composition of fill material does not have a tendency for excessive natural compaction,
  - 2. Volume and distribution of fill will not cause wave deflection to adjacent properties; and
  - 3. Slope of fill will not cause wave run –up or ramping.
- G. There shall be no alteration of sand dunes that would increase potential flood damage.
- H. All new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non –supporting breakaway walls, open wood lattice –work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Breakaway wall enclosures shall not exceed 299 square feet. Only flood resistant materials shall be used below the required flood elevation specified in Section 41. One (1) wet location switch and/or outlet connected to a ground fault interrupt breaker may be installed below the required lowest floor elevation specified in Section 41.
- I. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - 1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood.
  - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). The water loading shall be those values associated with the base flood. The wind loading values shall be those required by applicable IBC International Building Code.
  - 3. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation, finished or partitioned into multiple rooms, or temperature –controlled.

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- J. No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of Section 41C.
- K. Recreational vehicles shall be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 41F and the Temporary Structure provisions of Section 45K.
- L. Accessory structures, below the required lowest floor elevation specified in Section 45B, are prohibited except for the following:
1. Swimming Pools
    - a. They are installed at –grade or elevated so long as the pool will not act as an obstruction.
    - b. They must be structurally independent of the building and its foundation.
    - c. They may be placed beneath a coastal building only if the top of the pool and any accompanying decking or walkway are flush with the existing grade and only if the lower area remains unenclosed.
    - d. As part of the certification process for V –zone buildings the design professional must consider the effects that any of these elements will have on the building in question and any nearby buildings.
  2. Access Stairs Attached to or Beneath an Elevated Building
    - a. Must be constructed of flood –resistant materials.
    - b. Must be constructed as open staircases so they do not block flow under the structure in accordance with Section 45B.
  3. Decks
    - a. If the deck is structurally attached to a building then the bottom of the lowest horizontal member must be at or above the elevation of the buildings lowest horizontal member.
    - b. If the deck is to be built below the BFE, then it must be structurally independent of the main building and must not cause an obstruction.
    - c. If an at –grade, structurally independent deck is proposed, then a design professional must evaluate the design to determine if it will adversely affect the building and nearby buildings.
- M. Parking areas should be located on a stable grade under or landward of a structure. Any parking surface shall consist of gravel or aggregate.
- N. Electrical, ventilation, plumbing, heating and air conditioning equipment (including ductwork), and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of base flood event plus three (3) feet. This requirement does not exclude the installation of outdoor faucets for shower heads, sinks, hoses, etc., as long as cut off devices and back flow prevention devices are installed to prevent contamination to the service components and thereby minimize any flood damages to the building. No utilities or components shall be attached to breakaway walls.

# Exhibit D2. FLOOD DAMAGE PREVENTION ORDINANCE

## SECTIONS 46 through 49 Reserved

### ARTICLE V. VARIANCE PROCEDURES

#### SECTION 50 Establishment of Appeal Board

The Planning Commission as established by the Town of Atlantic Beach shall hear and decide appeals and requests for variances from the requirements of this ordinance when it is alleged there is an error in any requirement, decision, or determination made by the Planning Administrator in the enforcement or administration of this ordinance.

- A. Right to Appeal – Any person or taxpayer aggrieved by the decision of the Planning Commission may appeal such decision to the Fifteenth Judicial Circuit Court of Common, as provided in Section 5 –23 –150 of the SC Code of Laws.
- B. Historic Structures – Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continue designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Functionally Dependent Uses – Variances may be issued for development necessary for the conduct of a functionally dependant use, provided the criteria of this Ordinance are met, no reasonable alternatives exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.
- D. Agricultural Structures – Variances may be issued to wet floodproof an agricultural structure provided it is used solely for agricultural purposes. In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of Section 50H, this section, and the following standards:
  1. Use of the structure must be limited to agricultural purposes as listed below:
    - a. Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;
    - b. Steel grain bins and steel frame corncribs;
    - c. General –purpose barns for the temporary feeding of livestock that are open on at least one (1) side; and,
    - d. For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures that were substantially damaged. New construction and substantial improvement of such structures must meet the elevation requirements of Section 41B of this ordinance.
  2. The agricultural structure must be built or rebuilt, in the case of an existing building that is substantially damaged, with flood –resistant materials for the exterior and interior building components and elements below the base flood elevation.
  3. The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood –related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood

## Exhibit D2. FLOOD DAMAGE PREVENTION ORDINANCE

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velocities exceed five (5) feet per second, fast-flowing floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls.

4. The agricultural structure must meet the venting requirement of Section 41D of this ordinance.
  5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation (BFE), plus any required freeboard, or be contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 40F of this ordinance.
  6. The agricultural structure must comply with the floodway encroachment provisions of Section 41E of this ordinance.
  7. Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risk to lives and that the contents will be located to a specified site out of the floodplain.
- E. Considerations – In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity of the facility to a waterfront location, where applicable;
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  7. The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  8. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  9. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and
  10. Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.

## **Exhibit D2. FLOOD DAMAGE PREVENTION ORDINANCE**

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- F. Findings – Findings listed above shall be submitted to the Board of Zoning Appeals, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water and Conservation Division, State Coordinator’s Office, must be taken into account and included in the permit file.
- G. Floodways – Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to ensure the project is built in compliance with the CLOMR for which the variance is granted, the applicant must provide a bond for 100 percent of the cost to perform the development.
- H. Conditions – Upon consideration of the factors listed above and the purpose of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:
1. Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
  2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  3. Variances shall only be issued upon (i) a showing of good and sufficient cause (ii) a determination that failure to grant the variance would result in an exceptional hardship, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
  4. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk. Such notification shall be maintained with a record of all variance actions.
  5. The Planning Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.
  6. Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Section 34E of this ordinance.

### **SECTIONS 51 through 59 Reserved**

## **ARTICLE VI. LEGAL STATUS PROVISIONS**

### **SECTION 60 Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance**

This Ordinance in part comes forward by re –enactment of some of the provisions of the flood damage prevention ordinance enacted October 6, 2003 and it is not the intention to repeal but rather to re –enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention

## **Exhibit D2. FLOOD DAMAGE PREVENTION ORDINANCE**

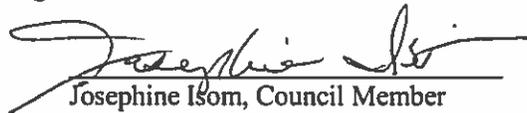
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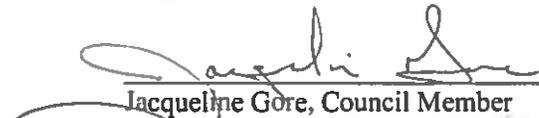
Ordinance of the Town of Atlantic Beach, South Carolina enacted on October 6, 2003, as amended, which are not reenacted herein, are repealed.

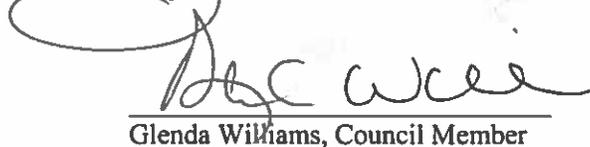
- A. Effect upon Outstanding Building Permits – Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building, structure, or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this ordinance; provided, however, that when start of construction has not occurred under such outstanding permit within a period of sixty (60) days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.
- B. Effective Date – This ordinance shall become effective upon adoption.

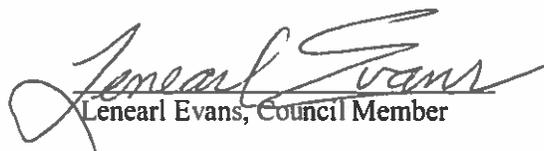
DONE IN COUNCIL ASSEMBLED THIS DAY OF DECEMBER 2, 2019.

  
Jake Evans, Mayor

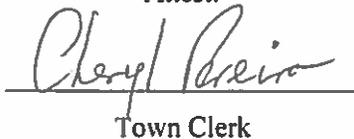
  
Josephine Isom, Council Member

  
Jacqueline Gore, Council Member

  
Glenda Williams, Council Member

  
Lenearl Evans, Council Member

Attest:

  
Town Clerk

  
Town Manager

First Reading: November 12, 2019

Second Reading: December 2, 2019

# **APPENDICES**

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## **DIVISION 2. OFFICIAL ZONING MAP**



**Zoning Map**

**Town of Atlantic Beach**

**Amended Aug. 29, 2024**

- Residential (R2)
- Main Street 1 (Residential) (MS1R)
- Main Street 1 (MS1)
- Main Street 2 (MS2)
- Highway (HWY)
- Waterfront 1 (WF1)
- Waterfront 2 (WF2)
- Waterfront 2-Flexible Design District (WF2-FDD)
- Government (G)
- Conservation Protection (CP)



DISCLAIMER: This map is a graphic representation of data obtained from various sources. All efforts have been made to warrant the accuracy of this map. However, WRCOG disclaims all responsibility and liability for the use of this map.







*This document was prepared with technical assistance provided by the*



**WACCAMAW REGIONAL COUNCIL OF GOVERNMENTS**