

CHAPTER 153: ZONING CODE

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Zoning and Subdivision Ordinance Code Enforcement Officer, see §§ 151.50 through 151.56
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GENERAL PROVISIONS

§ 153.001 JURISDICTION.

The provisions of this chapter shall apply within the corporate limits of the Town of Broadway, and within the extraterritorial jurisdiction adopted by the Town of Broadway.

(Ord. passed 6-10-91)

§ 153.002 PURPOSE.

The purpose of these regulations shall be to accomplish a coordinated, balanced, and harmonious development of the land within the corporate limits of the town and within the extraterritorial area, in a manner which will best promote the health, safety, morals, convenience, order, prosperity, and general welfare of the people, as well as to provide for efficiency and economy in the process of development; to make adequate provisions for traffic; to secure safety from fire, panic, and other hazards; to provide for light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; and to protect property against blight and depreciation.

(Ord. passed 6-10-91)

§ 153.003 TITLE.

This chapter shall be known and may be cited as “The Zoning Ordinance of the Town of Broadway, North Carolina.”

(Ord. passed 6-10-91)

§ 153.004 DEFINITIONS AND INTERPRETATION.

(A) Interpretation of certain terms.

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

(2) Words used in the singular number include the plural and words used in the plural number include the singular.

(3) The word **PERSON** includes a firm, joint venture, association, organization, partnership, corporation, trust, and company, as well as an individual.

(4) The word **LOT** includes the words “plot” or “parcel.”

(5) The word **BUILDING** includes the word “structure.”

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

(7) The words **USED** or **OCCUPIED** as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

(8) The words **ZONING MAP** or **OFFICIAL BROADWAY ZONING MAP** shall mean the Map of Broadway, North Carolina.

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

ACCESSORY. Incidental to another use or structure on the same lot.

ALTERATION. Includes any of the following:

- (1) Any addition to the height or depth of a building;
- (2) Any change in the location of any of the exterior walls of a building;
- (3) Any increase in the interior accommodations of a building.

ARCHITECTURALLY INTEGRATED SUBDIVISION. A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, height, and location of all such buildings.

APARTMENT. A room or unit of one or more rooms, each of which have kitchen facilities, and are designated or intended to be used as an independent unit on a rental basis.

ASSEMBLY. A joining together of completely finished parts to create a finished product.

AUTOMOBILE WASH or **AUTOMATIC CAR WASH.** A lot on which motor vehicles are washed or waxed, either by the patron or by others, using machinery specifically designed for the purpose.

BOARD OF ADJUSTMENT. A semi-judicial body composed of representatives from or for the planning jurisdiction of Broadway which are given certain powers under and relative to this chapter.

BOARD OF COMMISSIONERS. The governing body of the Town of Broadway.

BOARDING HOUSE. A rooming house or a structure which contains four or more rooms, each of which have no kitchen facilities, and are designed or intended to be used for residential occupancy on a rental basis.

BUILDING. Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes of building.

BUILDING, COMMERCIAL. Any building used for business purposes.

BUILDING, HEIGHT OF. The vertical distance from the average underwalk grade, or finished grade of the building line, whichever is the highest, to the highest point of the building.

BUILDING, DETACHED. A building having no party or common wall with another building except an accessory building.

BUILDING LINE. A line located a minimum horizontal distance from the right-of-way line of a street or property line parallel thereto and between which the street right-of-way line or property line no building or parts of a building may be erected, altered, or maintained except as otherwise provided herein.

BUILDING, MAIN. A building in which the principal use of the lot on which the building is situated is conducted.

BUILDING SITE. Any lot or portion thereto, of a parcel of land upon which a building or buildings may be erected in conformance with the provisions contained herein.

CANOPY TREE. A species of tree which normally grows to a mature height of forty (40) feet or more with a minimum mature crown width of thirty (30) feet.

CERTIFICATE OF OCCUPANCY. A statement signed by the Zoning Administrator setting forth that the building, structure, or use complies with the Zoning Code and any applicable construction codes, and that the same may be used for the purposes stated herein.

COMMERCIAL ANIMAL CONFINEMENT FACILITY. Any of the following:

(1) *Poultry facilities.* Includes poultry houses, animal waste lagoons, and other areas which house or contain 500 or more animals (chickens, turkeys, game birds, or other types of poultry).

(2) *Swine facilities.* Includes farrowing houses, topping floors, animal waste lagoons, and any other breeder and/or feeder operations which house or contain 50 or more swine in total.

(3) *Cattle facilities.* Includes feeder lots, milking barns, animal waste lagoons, and any cattle facility in which 25 or more cattle are housed or kept on one acre of land or less, for 30 days or more.

(4) *Other confined animal facilities.* Includes livestock for goats, sheep, horses, dogs, and other poultry or livestock which house or contain 25 or more animals on one acre of land or less, for 30 days or more.

CONSTRUCTION, TRADES. One who accomplished work or provides facilities under contract with another and specifically engages in a specialized trade such as plumbing, heating, wiring, sheet metal, and roofing work, and the like.

DAY CARE CENTER. A facility inclusive of a kindergarten, for the care and/or education of preschool age children and licensed by the North Carolina Department of Human Resources.

DRIVE-IN (EATING OR DRINKING FACILITY). An establishment that provides employee curb service or accommodations through special equipment or facilities for the ordering of food or beverage from a vehicle.

DWELLING, PATIO HOUSE. A one-family dwelling on a separate lot with open space setbacks on three (3) sides and with a front court.

DWELLING, SEMI-DETACHED TOWNHOUSE. A one-family dwelling unit that is connected on one (1) or more sides by means of a common dividing structural or load-bearing wall of at least ten linear feet to another one-family dwelling, each on its own individual lot. The common dividing wall must have at least a two (2) hour fire rating.

DWELLING, SINGLE-FAMILY. A detached building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY. A detached building either designed for or occupied by two families living independently of each other.

DWELLING, MULTI-FAMILY. A building used or designed as a residence for more than two families living independently of each other.

DWELLING UNIT. A residential structure or that portion of a residential structure used or designed as a residence for one family.

ERECT. To build, construct, rebuild, reconstruct, as the same are commonly defined.

FABRICATION. The processing and/or assemblage of various components into a complete or partially completed commodity. **FABRICATION** relates to stamping, cutting, or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw materials such as metal, ore, lumber, and rubber, and the like are included.

FAMILY. Being one or more persons or group of two or more persons living together and interrelated by bonds of marriage or legal adoption occupying the whole part of a dwelling as a separate

housekeeping unit with a common and single set of culinary facilities. The person thus constituting a family may also include two additional guests who occupy rooms for which compensation may or may not be paid. Any group of persons not so related but inhabiting a single housekeeping unit shall be considered to constitute one family for each five persons exclusive of domestic employees, contained as one group.

FAMILY CARE HOME. A facility designed to care for a maximum of six handicapped persons, plus support and supervisory personnel, as defined in G.S. § 168-21.

FRONTAGE. All property abutting one side of a street measured along the street line.

GARAGE, PRIVATE. A building or space used as an accessory to a part of the main building permitted in any residential district that provides storage space for motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

GARAGE APARTMENT* or *GRANNY FLAT. A building or space used as an accessory to a principal dwelling permitted in any residential district. The ***GARAGE APARTMENT*** or ***GRANNY FLAT*** provides a residential dwelling separate from the principal dwelling.

GROUP HOME. A residential facility for not more than 12 persons, licensed by the State of North Carolina, by whatever name it is called (for example, domiciliary home, home for the aged, rest home, and the like) other than a *family care home* as defined by this section, which has support and supervisory personnel and which provides room, board, and personal care in a family or group setting.

HOME CARE UNIT. A facility meeting all the requirements of the State of North Carolina for boarding and care of not more than five persons who are not critically ill and do not need regular professional medical attention.

HOME OCCUPATION. Certain specified occupations customarily conducted for profit within a dwelling unit and carried on by the occupant thereof. Criteria for the classification of a ***HOME OCCUPATION*** is contained in this chapter.

INDUSTRY, PILOT OPERATION. A manufacturing establishment that produces only research and/or sample products and is not engaged in the mass production of any product for wholesale or retail sale to the general public or other businesses. This definition shall also include custom and manufacturing of commodities produced by skilled artisans or craftsmen, but is not inclusive of the mass production of any commodity by such artisans or craftsmen.

JUNK. Pre-used or unusable metallic parts and other non-metallic manufactured products that are worn, deteriorated, or obsolete making them unusable in their existing condition, but are subject to be dismantled and salvaged.

JUNKYARD. The use of more than 600 square feet of any lot for the storage of junk, including scrap metals, or other scrap materials, or for the dismantling or abandonment of automobiles or other vehicles or machinery.

KENNEL. A facility operated exclusively for profit and for the expressed purposes of providing shelter for animals.

LOT. Land area which is composed of a single parcel or contiguous parcel of land under same ownership and is recorded as such in the Office of the Register of Deeds.

LOT AREA. The parcel of land enclosed within the boundaries formed by the property lines plus one-half of any alley abutting the lot between the boundaries of the lot, if extended.

LOT, CORNER. Any parcel of land having frontage on more than one street (road) which abuts an intersection of those streets (roads).

LOT DEPTH. The depth of a lot; for the purpose of this chapter, is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite lot line.

LOT LINE. Any boundary of a parcel of land.

LOT LINE, FRONT. Any boundary line of a lot running along a street right-of-way line.

LOT LINE, REAR. The property line which is opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard setback shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the midpoint on the front lot line.

LOT LINE, SIDE. A boundary line which is not defined as a front or rear lot line.

LOT, THROUGH. A continuous lot of the same depth as the width of a block, accessible from both rights-of-way upon which it fronts.

LOT OF RECORD. A lot which has been recorded in the Office of the Register of Deeds or a lot described by metes and bounds the description of which has been recorded in the aforementioned office.

LOT WIDTH. The horizontal distance between the side lines measured along the front building line as specified by the applicable front yard setback in this chapter.

MANUFACTURED HOME (MOBILE HOME). A residential dwelling unit, designed for transportation after fabrication, on its own wheels or on flatbeds or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor unpacking and assembly operations. Travel trailers and campers shall not be considered manufactured homes.

MANUFACTURED HOME, CLASS A. A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

(1) The manufactured home has a length not exceeding four times its width (for example, a “double-wide” unit);

(2) The pitch of the manufactured home's roof has a minimum vertical rise of five feet for each 12 feet of horizontal run (5' in 12') and the roof is finished with shingles;

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- (3) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding, wood, or hardboard;
- (4) A continuous, permanent masonry foundation, unpierced except for ventilation and access, is installed under the manufactured home;
- (5) The tongue, axles, removable towing apparatus, and transporting lights are removed after final placement on the site; and,
- (6) A minimum of 1,200 square feet of interior space.

MANUFACTURED HOME, CLASS B. A manufactured home constructed after July 1, 1976 that meets or exceeds the standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a Class A manufactured home. (See § 153.028)

MANUFACTURED HOME, CLASS C. A manufactured home that does not meet the definition of either a Class A or a Class B manufactured home. (See § 153.028)

MANUFACTURED HOME PARK. Any lot or part thereof, or any parcel of land which is used or offered as a location for three or more manufactured homes, regardless of whether or not a charge is made for such accommodations.

MODULAR HOME. A detached residential dwelling unit designed for transportation, after off-site fabrication on flatbed trucks or trailers. At the site, a modular home must be placed on a permanent foundation; heating and cooling system, plumbing fixtures, and electrical appliances must be installed before being occupied.

NONCONFORMING USE. A use of buildings or land that does not conform with the regulations of the district in which such building or land is situated but was lawful before adoption of this chapter.

NURSING HOME. A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital or mental health center.

PLANNED UNIT DEVELOPMENT. A residential, commercial, or combination of residential and commercial projects located on land under unified control, planned as a whole, and developed as a single development or in a definitely programmed series of units or stages of development according to comprehensive and detailed plans, with a program for the provision, operation, and maintenance of any areas, improvements, and facilities provided for the common use of the occupants or users of the development.

PLANNING BOARD. For the purposes of this chapter, a body appointed by the Broadway Town Board of Commissioners to perform the following duties:

- (1) Develop and recommend long-range development plans and policies;
- (2) Advise the Board of Commissioners in matters pertaining to current physical development and zoning for the town's planning jurisdiction.

PROCESSING. Any operation changing the nature of material or materials chemical composition or physical properties. Does not include operations described as *fabrication*.

PUBLIC SEWER SYSTEM. Any sewage disposal system whether operated publicly or privately other than a pit privy or a septic tank located on the lot and approved by the County Health Department.

PUBLIC WATER SYSTEM. A system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

RETAIL. The sale of a commodity to the ultimate consumer and not customarily subject to sale again.

RIDING ACADEMY. An equestrian institution of learning requiring tuition at which students remain on campus for an extended period of time until the prepared curriculum is successfully completed.

SALVAGE OPERATION. The reclamation, dismantling, or storage of pre-used commodities, junk, and similar material for the purposes of resale, processing, distribution, or deposition.

SERVICE STATION. A building or lot where gasoline, oil, grease, and automotive accessories are supplied and dispensed to a motor vehicle trade.

SETBACK. The distance between the minimum building line and the street right-of-way line and where no street right-of-way is involved, the property line shall be used in establishing the setback.

SIGNS. Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known such as the designation of an individual, firm, association, profession, business commodity, or product which are visible from any public way and used to attract attention.

SIGN, AREA OF. That sign area shall be computed by the smallest square, triangle, rectangle, circle, or combination thereof which will encompass the entire sign including lattice work, frame, or supports incidental to its decoration. In computing the area, only one side of a double-face sign structure shall be considered.

SIGN, BUSINESS IDENTIFICATION. Any sign which advertises an establishment, service, commodity, or activity conducted upon the premises where such sign is located.

SIGN, OUTDOOR ADVERTISING. Any sign which advertises an establishment, service, commodity, goods, or entertainment sold or offered on premises other than that on which such sign is located.

SIGN, PORTABLE. Any sign not exceeding 80 square feet in billboard area and constructed as a part of or attached to a trailer.

STORAGE. The deposition of commodities or items for the purposes of future use or safekeeping.

STREET. A public thoroughfare which affords access to abutting property and is recorded as such in the Office of the County Register of Deeds.

STRUCTURE. See **BUILDING**.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other division for the purpose, whether immediate or future, of sale or building development, and all division of land involving the dedication of new streets or a change in existing streets provided, however, that the following shall *not be included* within this definition:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards as contained herein.

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

(3) The public acquisition by purchase of strips of land for the widening or opening of streets.

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards as prescribed herein.

TOURIST HOME. Any building occupied by owner or operator in which rooms are rented for lodging of transients and travelers for compensation.

TRAVEL TRAILER. The following structures shall be considered **TRAVEL TRAILERS** regardless of other titles that may also be applicable such as camper, mini mobile home, and the like; any structure which:

(1) Consists of a single unit completely assembled at the factory; and,

- (2) Is designed so that the total structure can be transported on its own chassis; and,
- (3) Is not over 32 feet in length and eight feet in width.

UNDERSTORY TREE. A species of tree which normally grows to a mature height of fifteen (15) feet to thirty-five (35) feet in height.

USE. The purpose for which land or structures thereon are designed, arranged, or intended to be occupied or used; or for which it is occupied, maintained, rented, or leased.

USE, CONDITIONAL. A use permitted in a zone only after specific findings by the Planning Board and Town Board.

USE-BY-RIGHT. A use which is listed as an unconditionally permitted activity in this chapter.

VARIANCE. A modification or alteration of any of the requirements of this chapter.

WAREHOUSE. A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed or reshipped.

WHOLESALE. Sale of a commodity for resale to the public for direct consumption.

YARD. Any open space on the same lot with a building and unoccupied from the ground upward except by trees, shrubbery, or fences.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front lot line.

YARD, REAR. A yard located behind the rear line of the main building, if extended, to the perimeter of the lot.

YARD, SIDE. A yard between the building and side lot line, extending from the front building line to the rear building line.

ZONING PERMIT. A permit issued by the Zoning Administrator or his authorized agents, that permits the applicant to use or occupy a tract of land or a building; or to erect, install, or alter a structure, building, or a sign situated in the jurisdiction of the town that fully meets the requirements of this chapter.
(Ord. passed 6-10-91; Am. Ord. 98-1, passed 1-12-98; Am. Ord. 98-2, passed 6-8-98; Am. Ord. 99-2, passed 2-22-99)

§ 153.005 LEGAL STATUS PROVISIONS.

(A) In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the highest standards, shall govern.

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

(C) All actions challenging the validity of this chapter, or amendment adopted hereto, shall be brought within nine months after enactment.

(Ord. passed 6-10-91)

ESTABLISHMENT OF ZONING DISTRICTS**§ 153.015 INTERPRETATION OF DISTRICT BOUNDARIES; ZONING MAP.**

(A) The locations and boundaries of each of the zoning districts shall be shown on the zoning map filed in the office of the Town Clerk, entitled "Official Zoning Map, Broadway, North Carolina," and adopted by the Town Board of Commissioners. The Zoning Map and all the notations, references, and amendments thereto, and other information shown are hereby made a part of this chapter. The Zoning Map shall be kept on file in the Office of the Town Clerk and shall be available for inspection by the public.

(B) The map shall be identified by the signature of the Mayor, attested by the Town Clerk, and bearing the Official Seal of the Town of Broadway under the following words: "This is to certify that this is the Official Zoning Map of the Zoning Ordinance for the Town of Broadway, North Carolina." The date of adopting shall also be shown.

(C) If, in accordance with the provisions of this chapter, changes are made in the zoning district boundaries or other matters shown on the map, such changes shall be made together with an entry on the map as follows: "On _____ (date) by official action of the Town Board of Commissioners, the following changes were made in the Official Zoning Map: (brief description of nature of the change)."

The entry shall be signed by the Mayor and attested by the Town Clerk. No amendment to this chapter which involves matter portrayed on the map shall become effective until after such change and entry has been made on such map.

(D) In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret, the Town Board may by ordinance adopt a new Official Zoning Map which shall be the same in every detail as the map it supersedes. The new map shall bear the signatures of current officials and shall bear the seal of the town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ (date of adoption of map replaced)." The date of adoption of the new Official Zoning Map shall be shown also.

(E) The boundaries of such districts as are shown upon the map attached to the ordinance filed in the office of the Town Clerk are hereby adopted. The provisions of this chapter governing the use of land and buildings, the height of buildings, the building site areas, the size of yards around buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included with the boundaries of each and every district as shown upon said map.

(Ord. passed 6-10-91)

§ 153.016 UNCERTAINTY PERTAINING TO BOUNDARIES.

Where uncertainty exists with respect to the location of certain boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.

(C) Boundaries indicated as approximately following town limit lines shall be construed to follow such town limit lines.

(D) Boundaries indicated as following the rights-of-way of railroad lines shall be construed to follow such rights-of-way.

(E) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

(F) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

(G) Where physical and cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Ord. passed 6-10-91)

GENERAL REGULATIONS

§ 153.025 COMPLIANCE WITH DISTRICT REGULATIONS.

(A) Except as hereinafter provided, the regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

(B) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof, shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations specified herein for the district in which it is located.

(C) No building or other structure shall hereafter be erected or altered:

(1) To exceed the height;

(2) To accommodate or house a greater number of families;

(3) To have narrower or smaller front yards, side yards, rear yards, or other open spaces;

(4) To occupy a greater percentage of lot area than permitted herein or in any other manner contrary to this chapter.

(D) No part of a yard or other open space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard or other open space similarly required for any other building or use.

(E) No yard setbacks or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(F) Every business or residential building hereafter erected or moved shall be on a lot adjacent to a street right-of-way, and all structures shall be so located as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(G) Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on a lot, except in the case of a specially designed complex of institutional, residential, commercial, or industrial buildings in an appropriate zoning district.

(H) No lot shall be reduced or changed in size so that the total area, minimum frontage, front, side, or rear setbacks, lot area per dwelling unit, or other dimensions, areas, or open spaces required by these regulations are not maintained. No lot shall be reduced in size so as to produce an additional lot which is not in conformity with these regulations, unless said lot is combined with other land to produce a conforming lot or unless said lot is needed and accepted for public use.

(Ord. —, passed 6-10-91; Am. Ord. 98-1, passed 1-12-98) Penalty, see § 153.999

§ 153.026 ACCESSORY STRUCTURES.

(A) *Inclusion.* Accessory structures include but are not limited to garages, carports, sheds, storage buildings, and swimming pools.

(B) *General requirements.* The following standards shall apply to all accessory structures in each zoning district. (Bona fide farms are exempt.)

(1) *Allowance of accessory structures.* Accessory structures shall be allowed only if the use is incidental and accessory to that of a principal building and is located on the same lot as the principal building. In no instance shall an accessory building or structure be located on vacant lots.

(2) *Location of accessory buildings and setbacks.* Accessory structures shall not be permitted within any required front or side yard setback except accessory structures under 200 square feet of floor area may be located within five feet of the interior side and rear property lines. Structures of 200 square feet of floor area or larger shall meet all yard setback requirements of the respective districts. If an easement exists along such property line, the minimum setback will be at the easement if the easement is greater than the minimum setback. On corner lots, accessory structures shall be located in the one-third portion of the lot farthest from streets. On through lots, accessory structures shall be located in the middle one-third portion of the lot.

(3) *Height.* The height of all accessory structures shall conform to the height limitation of the zoning district in which it is located.

(4) *Swimming pools.* Private swimming pools shall be allowed as an accessory use. No private swimming pool shall be operated as a business. Swimming pools must meet all setback requirements of the respective zoning district. All swimming pools shall be enclosed by protective fencing.

(5) *Residential accessory structures.* Neither a manufactured home nor a recreational vehicle shall be permitted as a residential accessory structure.

(Ord. —, passed 6-10-91; Am. Ord. 00-3, passed 7-10-00) Penalty, see § 153.999

§ 153.027 SETBACK REQUIREMENTS NOT TO AFFECT OTHER REQUIREMENTS; MEASURING MINIMUM FRONTAGE.

(A) The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence, or wall. However, no fence or wall shall exceed a height of six feet in any front or side yard unless specified elsewhere. Such fences and walls shall be located on the lot with the principal building.

(B) Where a minimum frontage is specified in these regulations it shall be measured at the front yard setback line.

(Ord. —, passed 6-10-91)

§ 153.028 FOUNDATION REQUIREMENTS FOR CLASS B AND C MANUFACTURED HOMES.

(A) A continuous, permanent masonry foundation, unpierced except for ventilation and access, shall be installed under all Class A manufactured homes prior to the final inspection of the home being completed by the Building Inspector, prior to a certificate of occupancy being issued for the home, and prior to approval for the electricity being connected to the home being granted by the Building Inspector.

(B) A continuous, uniform foundation enclosure, unpierced except for required ventilation and access, shall be installed on all new or relocated Class B or Class C manufactured homes. The enclosure may consist of brick or concrete block, or wood, vinyl, or metal fabricated for this purpose. Any wood framing for foundation skirting shall be constructed with treated lumber.

(Ord. —, passed 6-10-91) Penalty, see § 153.999

§ 153.029 EXISTING LOT OF RECORD; EXCEPTIONS.

Any lot of record existing when adopted, which has an area or a width which is less than required by this chapter, shall be subject to the following exceptions and modifications:

(A) *Adjoining lots.* When two or more adjoining lots with continuous frontage are in one ownership at any time after the adoption of this chapter, and such lots individually are less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the district in which located.

(B) *Lot not meeting minimum lot size requirements.* Except as set forth in division (A) of this section, in any district in which single-family dwellings are permitted, any lot of record existing at the time of the adoption of these regulations which has an area or a width which is less than required by these regulations may be used as a building site for a single-family dwelling.

(C) *Side yard requirements.* Except as set forth in division (A) above, where a lot has a width less than the width required in the district in which it is located, then the Zoning Administrator shall be authorized to reduce the side yard requirements for such lot, provided however, no side yard shall be less than ten feet wide.

(Ord. —, passed 6-10-91) Penalty, see § 153.999

§ 153.030 CONDITIONAL USE; APPROVAL REQUIRED.

The district height limitations, stipulated elsewhere in this chapter, may be exceeded when a conditional use is approved by the Board of Adjustment. Such structures as church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, radio towers, masts, aerials, and similar structures which exceed the height limitations, may be permitted when an application for a conditional use is approved by the Board of Adjustment.

(Ord. —, passed 6-10-91) Penalty, see § 153.999

§ 153.031 FARMS EXEMPT FROM PROVISIONS.

The provisions of this chapter do not apply to bona fide farms. This chapter does not exercise any controls over crop lands, timber lands, pasture lands, idle, or other farm land devoted to agricultural use not over any farm house, barn, or other farm buildings, including tenant or other

houses for persons working said farm, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses promote open space and achieve the purposes of this chapter without the need for regulation. However, commercial animal confinement facilities, as defined by this chapter, shall not be permitted within the jurisdiction of the Town of Broadway. All other animal confinement facilities which do not meet the definition of a commercial animal confinement facility shall be authorized only in the Residential Agricultural District when it is clearly determined to be an accessory use to a bona fide farm operation.

(Ord. —, passed 6-10-91) Penalty, see § 153.999

§ 153.032 HOME OCCUPATIONS.

(A) Home occupations are permitted only as an incidental use and must comply with the following regulations:

(1) No more than one person other than a resident of the dwelling shall be engaged in such occupations.

(2) No more than 25% of the total actual floor area, or 500 square feet, whichever is less, shall be used for the home occupation.

(3) Any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard or side yard.

(4) The exterior of the dwelling shall not be altered in such a manner nor shall the occupation within the residence be conducted in such a way as to cause the premises to differ from its residential character in exterior appearance.

(5) The use shall not emit noise beyond that which normally occurs in the applicable zoning district, nor shall it emit dust, vibration, odor, smoke, fumes, glare, electrical interference, interference to radio or television reception, or other nuisance, and shall not be volatile or present a fire hazard.

(B) No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is conducted.

(Ord. —, passed 6-10-91) Penalty, see § 153.999

§ 153.033 LOT AND YARD REQUIREMENTS.

On through and corner lots, a minimum front yard setback of 25 feet shall be applied to all other street fronts not considered the front yard.

(Ord. —, 98-3, passed 6-8-98)

§ 153.034 AGE REQUIREMENT FOR MANUFACTURED HOMES.

(A) Class A or Class B manufactured homes permitted on individual lots and in manufactured home parks shall not be more than ten (10) years old from the date of permit issuance.

(B) Existing manufactured homes permitted on individual lots when moved, must be replaced with a Class A or Class B manufactured home not more than ten (10) years old from the date of permit issuance.

(Ord. 98-4, passed 6-8-98)

DISTRICT REGULATIONS

§ 153.045 DESCRIPTION OF DISTRICTS.

For the purposes of this chapter, the Town of Broadway and its area of extraterritorial jurisdiction is hereby divided into the following use districts:

RA, Residential-Agricultural District. The purpose of this district shall be to provide for residential development in rural areas where public water and sewer are not available but soils are suitable for septic tanks on 30,000 square foot lots.

RA-CU, Residential-Agricultural Conditional Use District. Identical to the RA Residential-Agricultural District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

RR-20, Residential Restricted District. The purpose of this district shall be to provide for residential development where public water and/or sewer are available or soils are suitable for septic tanks on 20,000 square foot lots.

RR20-CU, Residential Restricted Conditional Use District. Identical to the RR-20 Residential Restricted District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

RR-12, Residential Restricted District. The purpose of this district is to provide for residential development where public water and sewer are available.

RR12-CU, Residential Restricted Conditional Use District. Identical to the RR-12 Residential Restricted District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

RM-10, Mixed Residential District. The purpose of this district is to provide a place for residential uses of all types (single-family residences; multi-family dwellings; Class A, B, or C manufactured housing); medium-to-high density development is permitted provided that water and sewer systems are made available and approved by appropriate authorities.

RM10-CU, Mixed Residential Conditional Use District. Identical to the RM-10 Mixed Residential District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

RR-6, Residential Restricted District. This zoning district is not intended for a single lot development, but for one which has a minimum of six (6) units.

RR-6-CU, Residential Restricted Conditional Use. Identical to the RR-6 Residential Restricted District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

B-1, Highway Business District. The purpose of this district shall be to provide for and encourage the proper grouping and development of roadside uses which will best accommodate the needs of the motoring public, the reduction of highway congestion and hazard, and the minimization of blight.

B1-CU, Highway Business Conditional Use District. Identical to the B-1 Highway Business District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

B-2, General Business District. The purpose of this district shall be to provide space for the main business district for the convenience of local shoppers.

B2-CU, General Business Conditional Use District. Identical to the B-2 General Business District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

M1, General Manufacturing Industrial District. The purpose of this district shall be to provide suitable locations for service, manufacturing, and warehousing activities which are non-noxious and do not emit smoke, dust, odor, noise, fumes, glare, vibration, or other objectionable characteristics from the property on which they are located.

M1, General Manufacturing Industrial Conditional Use District. Identical to the M1 General Manufacturing Industrial District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

M2, Prime Manufacturing Industrial District. The purpose of this district shall be to aid in the development and protection of new industrial areas with very high standards.

M2, Prime Manufacturing Industrial Conditional Use District. Identical to the M2 Prime Manufacturing Industrial District except that a Conditional Use Permit is required as a prerequisite to any use or development as provided in § 153.046.

(Ord. passed 6-10-91; Am. Ord. 99-2, passed 2-22-99)

§ 153.046 CONDITIONAL USE DISTRICTS; PERMIT REQUIRED.

(A) It will be noted that a Conditional Use District (bearing the designation CU) corresponds to each of the other districts authorized in this Zoning Code. It is the intent of this chapter to create general use

districts in which a variety of uses are permitted and to also create conditional use

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districts in which a single use is permitted upon the issuance by the Board of Commissioners of a Conditional Use Permit prescribing the conditions under which such use will be permitted. It is recognized by the town that certain types of zoning districts would be inappropriate at particular locations in the absence of clearly defined conditions.

(B) A Conditional Use Permit is appropriate only in rezoning cases and must be applied for by the applicant for rezoning. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Use District is a means by which specific conditions can be imposed in the furtherance of the purpose of this chapter. Within a Conditional Use District (sometimes referred to as a CUD), only those uses authorized by § 153.047 as permitted in the zoning district with which the CUD corresponds shall be permitted and all other requirements of the corresponding district shall be met. In addition, within a CUD, no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Board of Commissioners which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of right-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include architectural review or controls. In granting a Conditional Use Permit, the Board of Commissioners may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured, and substantial justice done.

(C) The authorization of a Conditional Use Permit in any CUD for any use which is permitted only through a Special Use Permit in the zoning district which corresponds to the CUD shall preclude any requirements for obtaining a Special Use Permit for any such use from the Board of Adjustment. If for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this chapter that the authorization of such Conditional Use Permit shall be null and void and of no affect and that proceedings be instituted to rezone the property to its previous classification.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.047 TABLE OF PERMITTED USES.

Districts in which particular uses are permitted as a Use-By-Right are indicated by “X.” Districts in which particular uses are prohibited are indicated by a blank. Districts in which particular uses are permitted as a Special Use upon approval by the Board of Commissioners are indicated by “S.”

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Accessory buildings or uses - incidental to any permitted use	X	X	X	X	X	X	X	X	X
Agricultural or farm use	X	X	X	X		X	X	X	X
Airfield, general aviation	S							S	S
Alcoholic beverage control retail stores						X	X		

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<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Ambulance service						X	X	X	
Amusements, out-of-doors commercial	S								
Animal medical care (including kennel operations)						X			
Antique, curio, gift, and souvenir sales						X	X		
Apparel and accessory sales						X	X	S	S
Assemblies (assembly hall, stadium, coliseum)	S	S	S	S		X	X		
Auction sales (excluding livestock auctioning)						X		X	X
Automobile wash						X	X		
Automobile off-street parking (commercial lots)						X	X		
Automobile parts and accessory sales						X	X		
Automobile repair and/or body work (excluding commercial wrecking, dismantling, or storage of junked vehicles)						X	X		
Automobile sales, new and used						X			
Automobile service stations						X	X		
Bakery production and wholesale sales								X	X
Bank, savings & loan company and other financial activities						X	X		
Barbering & hairdressing services						X	X		

Broadway - Land Usage

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Bedding & carpet manufacturing								X	X
Bicycle sales and repair						X	X		
Blacksmith						X	X		
Boarding house operation		X	X						
Boats and accessories, retail sales and service						X	X		
Bookbinding								X	X
Bottling								X	X
Builders supply (no outside storage)						X		X	X
Builders supply (with outside storage)								X	S
Cabinet making								X	X
Candy or confectionery making, on-premises and retail only.						X	X	X	X
Carpet and rug cleaning						X		X	
Catalogue sales						X	X		
Cemetery	X	S	S	S		S	S		
Church	X	X	X	X		X	X		
Clinic services, medical and dental							X		
Clothing & textile manufacturing								X	X
Club or lodge	S	S	S	S		S	S		

Zoning Code

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Coal sales and storage						X		X	S
Contractor, general (excluding outside storage or equipment and supplies)						X		X	S
Contractor, general (with outside storage of equipment and supplies)								X	
Construction storage								X	S
Cosmetics manufacturing								X	S
Dairy products sales, on-premises retail sales only						X	X		
Dairy products, sales and processing						X	X	X	X
Day care center (kindergarten)	S	S	S	S		S			
Dry-cleaning & laundry, commercial						X	X		
Dry-cleaning & laundry (customer self-service)						X	X		
Dwelling, single-family	X	X	X	X					
Dwelling, two-family			X	X					
Dwelling, multi-family				S					
Dwelling, patio house					X				
Dwelling, semi-detached townhouse					X				
Eating or drinking facilities (drive-ins excluded)						X	X		
Electrical appliance manufacturing								X	X
Electrical machinery manufacturing								X	X

Broadway - Land Usage

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Electrical component assembly operations								X	X
Exterminating service						X			
Family care homes, provided that no such home may be located within ½-mile radius of an existing family care home	X	X	X	X					
Farm machinery sales and service						X		X	S
Farm supplies merchandising (excluding farm machinery)						X	S	X	S
Fire station operations	S	X	X	X		X	X	X	X
Flower shop						X	X		
Food sales						X	X		
Funeral home						X	X		
Game farm	X								
Garage apartments, granny flats	S	S	S	S					
Group home	S		S						
Hardware, paint & garden supply stores						X	X		
Home furnishing and appliance sales						X	X		
Home occupations	X	X	X	X					
Hospitals, rest homes, homes for the aged, nursing homes	S		S						
Ice manufacturing						X	X	X	S
Industrial sales of equipment or repair service								X	X

Zoning Code

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Industrial uses not otherwise listed								X	X
Janitorial service						X	X		
Junkyard, scrap processor, auto wrecking establishments								S	
Laboratory operations, medical or dental						X		X	S
Library	X	X	X	X		X	X		
Locksmith, gunsmith						X	X		
Machine tool manufacturing or welding								X	X
Manufactured home for hardship	S	S	S	S					
Manufactured home (individual) for residential occupancy: Class A: Class B: Class B (on lot 5 acres or larger):	X X			X X					
Manufactured home (individual) for exhibition or office						S	S	S	S
Manufactured home park but excluding any manufactured home sales	S			S					
Monument sales						X		X	S
Monument works						X		X	S
Motel, hotel, & motor court operations						X			
Newsstand sales						X	X		
Nursery operation (plant)						X		X	

Broadway - Land Usage

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Office use of doctor, dentist, osteopath, chiropractor, optometrist or other profession						X	X		
Office supplies & equipment sales & service						X	X		
Optician services						X	X		
Paper goods manufacturing								X	X
Pet sales and animal grooming services, excluding kennel activities or outside storage of animals						X	X		
Pharmaceutical manufacturing								X	X
Pharmaceutical sales						X	X		
Planned business development						S	S	S	S
Planned unit development		S	S	S		S			
Photography, commercial						X	X		
Post office						X	X		
Precision instrument manufacturing			S						
Private recreation club or swimming activities not operated as a business for profit	S	S	X						
Printing and reproduction						X		X	X
Public recreation (such as community center buildings, parks, museums, playgrounds and similar facilities operated on nonprofit basis)	S	X	X	X		X		X	

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Public utility station or substations	S	S	S	S		S	S	S	S
Public utility works, shops, or storage yards						S		X	
Quarry and mining operations	S								
Recreation or amusement enterprise conducted inside or outside a building for profit, and not otherwise listed						X	X		
Reducing salon/health spa						X	X		
Repair, rental, and/or servicing of any product the retail sale of which is a Use-by-Right in the same district and not otherwise listed						X	X	X	
Retailing or servicing with operations conducted and merchandise stored inside and/or outside a building not otherwise listed herein						X	X		
Riding academy	S								
Rural family occupations	S								
Sanitary landfill									
Secondhand & swap shop sales						X	X		
Schools, business and commercial, trade, vocational, nursing, or other medically-oriented profession						X			
Schools, academic and building/trade	S					S			S
Sexually explicit entertainment						S		S	

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
School, private or public (elementary or secondary)	X	X	X	X					

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Broadway - Land Usage

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Sheet metal fabrication						X		X	X
Shopping center/commercial group development						SX	SX	SX	
Signs	See §§ 153.125 through 153.136 for permitted areas & regulations								
Storage, flammable liquids								S	S
Storage, open								S	
Storage, warehouse						X		X	X
Tailoring (dressmaking)						X	X		
Teaching of art, music, dance, dramatics, or other fine arts						X			
Telecommunication towers						S	S	S	S
Temporary construction building	X	X	X	X		X	X	X	X
Tire recapping						X			
Tobacco processing								X	X
Tobacco products manufacturing & processing									
Trailer rentals						X			
Travel trailer parks	S								
Trucking terminals									
Upholstering or furniture refinishing						X	X	X	X
Variety, gift, and hobby supply sales						X	X		

<i>PERMITTED USES</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>RR-6</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Wholesale sales with operations conducted and merchandise stored entirely within a building and not otherwise listed herein						X		X	X
Wooden products manufacture								X	X

(Ord. passed 6-10-91; Am. Ord. 98-1, passed 1-12-98; Am. Ord. 99-2, passed 2-22-99; Am. Ord. 04-1, passed 3-26-04; Am. Ord. 05-1, passed 2-28-05) Penalty, see § 153.999

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§ 153.048 TABLE OF DIMENSIONAL REQUIREMENTS.

	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>B-1</i>	<i>B-2</i>	<i>M1</i>	<i>M2</i>
Minimum lot area ¹	30,000 sq. ft.	20,000 sq. ft.	12,000 sq. ft.	10,000 sq. ft.	10,000* sq. ft.	none	20,000 sq. ft.	20,000 sq. ft.
Minimum lot width	100 ft.	100 ft.	80 ft.	75 ft. **	75 ft.	none	100 ft.	100 ft.
Minimum front yard	35 ft.	30 ft.	30 ft.	25 ft.	50 ft.	none	50 ft.	50 ft.
Minimum side yard (each side)	15 ft.	12 ft.	10 ft.	10 ft.	10+ ft.	none	10+ ft.	10+ ft.
Minimum rear yard	30 ft.	25 ft.	15 ft.	15 ft.	30 ft.	none	40 ft.	40 ft.
Maximum permitted height	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	50 ft.	50 ft.

¹ - All minimum lot areas are subject to approval by the County Health Department.

* - The Health Department may required more than 10,000 feet without public water and sewer.

** - Seventy-five feet are required for a duplex and 100 feet are required for a multi-family unit.
(Ord. passed 6-10-91) Penalty, see § 153.999

REQUIREMENTS FOR PATIO HOUSE AND SEMI-DETACHED TOWNHOUSE DEVELOPMENTS

§ 153.050 MINIMUM AREA.

(A) The minimum lot size shall be six thousand (6,000) square feet for a patio home (one-family dwelling).

(B) The minimum lot size for a semi-detached dwelling will be six thousand (6,000) square feet for the first unit and an additional two thousand (2,000) square feet for each additional unit.

(C) The density for patio homes and/or semi-detached, townhouse dwelling shall not exceed eight (8) units per acre, based on the total acres.

(D) An exception to the minimums may be requested and approved by the board; any deviation must be put back into common area amenities.

(Ord. 99-2, passed 2-22-99)

§ 153.051 SITE CONSIDERATIONS.

(A) The minimum lot width for a patio home (single-dwelling) shall be fifty (50) feet (at the building setback line). The minimum lot width for a semi-detached, townhouse dwelling is as follows:

(1) Outside units, thirty (30) feet (at the building setback line);

(2) Inside units twenty (20) feet (at the building setback line).

(B) The minimum lot depth shall be no less than eighty (80) feet.

(C) The minimum setbacks are as follows:

(1) Front, thirty (30) feet;

(2) Sides, ten (10) feet (exterior units only);

(3) Rear (backyard), twenty (20) feet, excluding patios, screening and decorative knee walls.

(D) The minimum setback for a corner lot (side yard, street side) shall be no less than twenty (20) feet.

(E) All dwellings (front, side, or back) must be forty (40) feet from any (publicly) maintained right-of-way running parallel to the project.

(F) Maximum building height shall be no more than thirty-five (35) feet.

(G) Streets within the development will have a minimum thirty (30) foot right-of-way, with a minimum width of twenty (20) feet travel-way.

(H) All utilities will be underground.

(Ord. 99-2, passed 2-22-99)

§ 153.052 BUFFER ZONE.

(A) A minimum buffer zone of ten (10) feet is required on all sides of the development, which do not run parallel to a publicly maintained street.

(B) This buffer zone will be landscaped within the character of and to harmonize with the development, except at the points of ingress/egress where a sight triangle is required.

(Ord. 99-2, passed 2-22-99)

§ 153.053 COMMON AREA.

(A) Space requirements: a building of six (6) or more units requires a minimum of sixty (60) square feet per unit for common area.

(B) Permitted uses of this common area will be for clubhouses, recreational facilities, playgrounds, swimming pools, tennis courts, parks, garden plots, unobstructed open space, etc.

(Ord. 99-2, passed 2-22-99)

§ 153.054 PARKING AND TRAFFIC.

(A) If a parking area is needed within the development, it must be paved and have ample lighting.

(B) To discourage traffic on street or streets within the development, a no through-traffic ordinance will apply and the entrance (ingress) area will be signed.

(C) The speed limit within the development will be fifteen (15) miles per hour (MPH) and will be so signed.

(Ord. 99-2, passed 2-22-99)

§ 153.055 HOMEOWNERS' ASSOCIATION.

(A) The development shall be so covered by the covenants running with the land and by other contractual provisions as to insure the proper maintenance of commonly owned areas, and shall include provisions for liens against the individual properties and be legally enforceable as personal obligations on the part of the individual property owners within the development.

(B) Common area land will be clearly defined and marked on the development map; and will be held in separate ownership for the use and benefit of residents (owners) of the development.

(Ord. 99-2, passed 2-22-99)

§ 153.056 PLAN REQUIREMENTS.

All plans that are required and/or needed for the development of the project will be submitted to the proper agents for review and/or approval.
(Ord. 99-2, passed 2-22-99)

SPECIAL USES; REQUIREMENTS

§ 153.060 OBJECTIVES AND PURPOSE.

(A) Permitted special uses add flexibility to the Zoning Code. Subject to good planning and design standards, certain uses of property are allowed in specified districts where those uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedures, uses of property which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties.

(B) The uses for which Special Use Permits are required are listed in the table of § 153.047. Uses specified in this section shall be permitted only upon the issuance of a Special Use Permit.
(Ord. passed 6-10-91)

§ 153.061 SPECIAL USE PERMIT REQUIRED.

(A) A Special Use Permit may be issued by the Zoning Administrator after approval by the Town Board, on recommendation of the Broadway Planning Board. The application for a Special Use Permit shall be filed at least 20 days prior to the regular scheduled meeting of the Town Board, which shall advertise a public hearing on the Special Use permit at least ten days prior to the date of the public hearing. The public hearing shall be heard jointly by the Town Board and Planning Board. After the hearing, the Planning Board shall make a recommendation for approval or denial to the Town Board, who shall then vote for approval or denial. A decision by the Town Board shall be rendered within 35 days of the public hearing.

(B) In approving the Special Use Permit, the Planning Board and Town Board shall find that:

- (1) The proposed use will not endanger public health, safety, and welfare;
- (2) The proposed use complies with and meets all requirements of the chapter;
- (3) The use will not substantially injure the value of the adjoining property or the use if of public necessity;

(4) The use will be in harmony with the area in which it is to be located and conforms with the land use plan;

(5) The proposed use is in harmony with the intent of the Zoning Code.

(C) In approving the Special Use Permit, the Town Board may designate such conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious and with the spirit and intent of this chapter. All such additional conditions shall be entered in the minutes of the meeting at which the Special Use Permit is granted, on the Special Use Permit, and on the plans submitted therewith. All conditions shall run with the land and shall be binding on the original applicant for the Special Use Permit, the heirs, successors, and assigns. In order to ensure that such conditions and requirements of each Special Use Permit will be fulfilled, the petitioner for the Special Use Permit may be required to provide physical improvements required as a basis for the issuance of the Special Use Permit.

(D) If the Town Board denies the Special Use Permit, the reasons therefor shall be entered in the minutes of the meeting at which the permit is denied.

(E) Where plans are required to be submitted and approved as part of the application of a Special Use Permit, modifications of the original plans may be made by the Town Board.
(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.062 SPECIAL USES TO COMPLY WITH SPACE REQUIREMENTS OF DISTRICT.

In addition to the specific conditions imposed by §§ 153.065 through 153.082 and whatever additional conditions the Town Board deems to be reasonable and appropriate, Special Uses shall comply with the height, yard, area, and parking regulations of the zone in which they are located.
(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.063 FAILURE TO COMPLY.

In the event of failure to comply with the plans approved by the Town Board, or with any conditions imposed upon the Special Use Permit, the permit shall thereupon immediately become void and of no effect. No zoning permits for further construction or Certificate of Occupancy/Compliance under the Special Use Permit shall be issued, and the use of all completed structures shall immediately cease and not thereafter be used for any purpose other than a Use-By-Right as permitted by the zone in which the property is located.
(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.064 EXISTING USES.

After the effective date of this chapter, those uses which existed prior to that effective date and would only thenceforth be permitted as a Special Use in the district in which it is located shall be considered to be a legally established Special Use. Any expansion, addition, or other change for which a Zoning Permit is required shall be heard, considered, and approved or disapproved by the Town Board of Commissioners in the same manner as original applications for use approval.
(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.065 PLANNED BUSINESS DEVELOPMENT.

(A) *Use.* Planned Business Development: (an area of land under unified control developed for business commercial or industrial uses, consisting of one or more principal structures or buildings and accessory structures or buildings on a plat not subdivided into customary streets and lots).

(B) *Special Use Districts.* B-1, B-2, M1, M2.

(C) *Minimum area.* One acre, 250-foot minimum lot width.

(D) *Site considerations.*

- (1) Such developments shall abut a major highway or a collector street and shall have direct access thereto.
- (2) Minimum front yard depth of 50 feet. Yards shall be used only for driveways, landscaping, and screening.
- (3) Points of ingress and egress shall consist of a driveway or roadway at least 20 feet in width and shall be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience, and congestion.
- (4) The number, width, and location of curb cuts shall be such as to minimize traffic hazards, inconvenience, and congestion.
- (5) Parking areas shall have a paved surface and all parking areas and traffic lanes shall be clearly marked.

(E) *Required plans.* Plans shall be submitted as may be required, showing:

- (1) Topography of the site, at contour interval no greater than five feet;
- (2) Dimensions of the property and adjacent lots and streets;
- (3) Location and proposed use of all buildings with dimensions and ground area thereof;
- (4) Streets, traffic circulation, and parking areas with spaces;
- (5) Service areas, off-street loading facilities, service drives, and dimensions thereon;
- (6) All pedestrian ways;
- (7) A title, giving the names of the developers, the date, the scale of the plan, and the person or firm preparing the plan;
- (8) Proposed landscaping, with property buffers between other uses;
- (9) Size and location of signs;
- (10) Proposed water system and fire fighting facilities such as hydrants or sprinkler connections;
- (11) The location and heights of all fences, walls, and hedges shall be shown;

- (12) Profiles of publicly maintained water and sewer lines;
- (13) Profiles, cross-sections and slopes of on-site, off-site ditches carrying water runoff;
- (14) Erosion and sedimentation control plan;
- (15) Lighting plan, where applicable.

(F) *Uses.* Uses shall be limited to those permitted by right in the district in which the development will be located.

(G) *Parking.* Off-street parking and loading shall be provided in accordance with §§ 153.110 through 153.113.

(H) *Signs.* Signs on premises shall be regulated as follows.

(1) Type of sign permitted: identification.

(2) Permitted number of signs: one ground sign per entrance to the development. There shall be no limitation of signs attached to and flat against the principal building or structure.

(3) Maximum area of ground sign: 15 square feet.

(4) Permitted illumination: indirect lighting, non-flashing illumination, and motionless.

(5) Permitted location: within the bounds of the property.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.066 PLANNED UNIT DEVELOPMENT.

(A) *Use.* Planned Unit Development: an area of land under unified control to be developed as a single entity for a number and variety of dwelling units (both attached and detached housing), the plan for which may not correspond in lot size, type of dwelling, or lot coverage to the regulations of the residential zoning district in which the PUD is located.

(B) *Special Use Districts.* RA, RR-10, RR-12.

(C) *Minimum area.* Five acres provided development is consistent with requirements for water and septic tank installation.

(D) *Modifications of dimensional requirements and density.* The yard regulations and height regulations set forth in § 153.048 may be modified for a planned unit development, provided that, for

such development as a whole, excluding streets, easements, and required buffers, but including parks and other permanent open spaces, there shall not be less than the required area per dwelling unit for the district in which such development is located. The development itself shall have a minimum frontage of 100 feet in all permitted districts which shall be used only for driveways, landscaping, and screening.

(E) *Site considerations.*

(1) Points of ingress and egress shall consist of a driveway or roadway with a minimum paved width of 20 feet and shall be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience and congestion.

(2) The number, width, and location of curb cuts shall be such as to minimize traffic hazards, inconvenience, and congestion.

(3) Parking areas shall have a paved surface and all parking areas and traffic lanes shall be clearly marked.

(4) Storm and sanitary sewerage shall be provided as approved by the Planning Board and the Lee County Health Department.

(5) A greenbelt planting strip, not less than 20 feet in width, shall be planted, prior to opening of the housing, along the street side of the property. Such greenbelt shall be planted with evergreens and other trees, at least 11 plants per 100 linear feet planted at random, which eventually will grow to a height not less than 12 feet. Topographic or other natural features offering screening shall be acceptable in lieu of foliage. The greenbelt at the front of the property shall be located so as to provide reasonable continuity in alignment with greenbelt of adjacent property.

(6) Adequate screening shall be provided by means of planting or fencing as needed to protect adjacent property.

(F) *Homeowners' Association.* The developer shall submit a draft of the Articles of Incorporation for the Homeowners' Association. The Articles of Incorporation shall provide that all owners of property within the development share automatic membership rights and assessment obligations for the maintenance of commonly owned areas (including recreation areas, open space, private streets, and the like). The automatic membership rights and assessment obligations of all owners of property within the PUD shall be so covered by covenants running with the land and other contractual provisions as to ensure the property maintenance of all commonly owned areas, and shall include provisions for liens against the individual properties and legally enforceable personal obligations on the part of the individual property owners within the development. Before granting of a Special Use Permit, the Articles of Incorporation shall be approved by the Town Attorney.

(G) *Required plans.* Plans as may be required shall be submitted showing:

- (1) Topography of the site, at contour intervals no greater than five feet;
- (2) Dimensions of the property and adjacent lots and streets;
- (3) Location, use, and ownership of all buildings, with dimensions and ground area thereof;
- (4) Public and private streets, parking areas with spaces and channelization;
- (5) All pedestrian ways;
- (6) A title, giving the names of the developers, the date, the scale of the plan, and the person or firm preparing the plan;
- (7) Proposed landscaping, with property buffers between other uses;
- (8) Storm drainage and sanitary sewer, where applicable;
- (9) Size and location of signs;
- (10) Proposed water system and fire fighting facilities such as hydrants or sprinkler connections;
- (11) The location and heights of all fences, walls, and hedges shall be shown;
- (12) Profiles of publicly maintained water and sewer lines;
- (13) Profiles, cross-sections, and slopes of on-site, off-site ditches carrying water runoff;
- (14) Erosion and sedimentation control plan;
- (15) Lighting plan, where applicable;
- (16) Location and amount of recreation area.

(H) *Common areas.* Land not shown as lots or reserved for residential development shall be commonly owned land. Such land shall be designated on the development plan as common area to be held in separate ownership for the use and benefit of residents of the PUD.

(I) *Parking.* Off-street parking and loading shall be provided in accordance with §§ 153.110 - 153.113.

(J) *Signs.* Signs on premises shall be regulated as follows:

- (1) Type of sign: identification.

- (2) Permitted number of signs: one ground sign per entrance to the development.
- (3) Maximum area of ground sign: 15 square feet.
- (4) Permitted illuminations: indirect lighting, non-flashing illumination, and motionless.
- (5) Permitted location: within the bounds of the property.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.067 AIRFIELD; GENERAL AVIATION.

(A) *Special Use Districts.* RA, M1, M2.

(B) *Required plans.* Plans as may be required shall be submitted showing:

- (1) Approval from all required state and federal agencies;
- (2) Scaled drawings of location and size of landing strips, all existing and proposed structures;
- (3) Location and type of lighting;
- (4) Anticipated type of and extent of use;

(5) Map of all property within 500 feet of proposed airfield, including names of property owners.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.068 JUNKYARD; SCRAP PROCESSOR; WRECKING ESTABLISHMENTS.

(A) *Use.* Junkyard, scrap processor, auto wrecking establishments.

(B) *Special Use District.* M1.

(C) *Required area.* Junkyards and scrap processors must be located on a minimum of three acres of land.

(D) *Screening.* Screening is required which completely screens from view the stored items. Such screening shall be a durable wall or fence at least eight feet high.

(E) *Plans*. The Planning Board may require the submission of plans showing the location of existing and proposed structures within the site and existing structures and such other information as may be necessary to judge the probable effect of the proposed activity on neighboring properties, and to carry out the intent of this chapter.

(F) *Parking*. Off-street parking and loading shall be provided in accordance with §§ 153.110 - 153.113.

(G) *Signs*. Signs on premises shall be regulated as follows:

(1) Type of sign: identification.

(2) Permitted number of signs: one ground sign per entrance to the storage yard.

(3) Maximum area of ground sign: 50 square feet.

(4) Permitted illuminations: indirect lighting, non-flashing illumination, and motionless.

(5) Permitted locations: within the bounds of the property.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.069 TRAVEL TRAILER PARKS.

(A) *Use*. Travel Trailer Parks: includes tenting and other forms of weather-protected, covered camping.

(B) *Special Use District*. RA.

(C) *Minimum area*. Five acres with a front yard depth of 50 feet.

(D) *Site considerations*.

(1) Trailers shall be separated from each other and from other structures by at least 15 feet. Any accessory structure such as attached awnings, carports, or storage facilities shall be considered to be part of the trailer.

(2) Minimum size of space shall be as required by the Lee County Health Department.

(3) There shall be at least one recreation area which shall be accessible from all trailer spaces. The size of such recreation area shall not be less than 8% of the gross site area.

(4) Roadways shall be stabilized gravel or crushed rock and of adequate width to accommodate anticipated traffic and in any case shall meet the following minimum requirements:

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(a) One-way, no parking - 12 feet; two-way, no parking - 24 feet.

(b) No roadway parking shall be permitted.

(5) The water supply, the sewerage system, service buildings, sanitation requirements, and solid waste disposal shall be reasonably accommodated and shall meet the requirements of the appropriate state and county regulatory agency.

(E) *Screening*. A 25-foot wide natural foliage greenbelt shall be planted along the street side of the property and along interior lot lines adjacent to a residential district. The plantings shall be of sufficient opacity to screen the use from view along interior lot lines.

(F) *Parking*. Off-street parking and loading space shall be provided in sufficient quantity to accommodate all parking and loading on the site. For this purpose, there shall be 1½ automobile parking spaces per trailer space.

(G) *Signs*. Signs on premises shall be regulated as follows:

(1) Type of sign: identification.

(2) Permitted number of signs: one ground sign per entrance to park.

(3) Maximum area of ground sign: ten square feet.

(4) Permitted illumination: indirect lighting, non-flashing illumination, motionless.

(5) Permitted location: within the bounds of the property.

(H) *Required plans*. Plans as may be required shall be submitted showing:

(1) Topography of the site, at contour intervals no greater than five feet;

(2) Location and approximate size of all existing and proposed buildings and structures within the site and existing buildings and structures within 500 feet adjacent thereto;

(3) Proposed points of ingress and egress together with the proposed pattern of internal circulation;

(4) Proposed parking areas;

(5) Proposed provision for storm and sanitary sewerage, including both natural and man-made features, and the proposed treatment of ground cover, slopes, banks, and ditches.

(I) *Space rental.* Trailer spaces shall be rented by the day.
(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.070 SCHOOLS; ACADEMIC AND BUILDING/TRADE.

(A) *Use.* Schools, academic and building/trade.

(B) *Special Use Districts.*

(1) Academic schools - all districts where permitted by special use.

(2) Business/trade - RA, B-1, M2.

(C) *Parking and loading.* Two spaces for each regular employee for non-academic schools. See §§ 153.110 - 153.113, for academic school parking requirements.

(D) *Required plans.* Plans as may be required shall be submitted showing:

(1) Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto;

(2) Proposed points of ingress and egress and pattern of internal circulation;

(3) Layout of parking spaces;

(4) Other details:

(a) Location and extent of open recreation of training area;

(b) Estimated number of students;

(c) Subjects to be taught outside of regular classroom facilities (for example, in laboratories, gyms, and the like).

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.071 PUBLIC UTILITIES; SUBSTATIONS/TRANSFORMERS.

(A) *Use.* Public utilities, substations, transformers.

(B) *Special Use Districts.* Public utility substation - any district.

(C) *Screening and fencing.* Substations, towers, and transformer stations shall be enclosed by a fence not less than six feet in height which shall be approved by the Planning Board.

(D) *Required plans.* Plans as may be required shall be submitted showing:

(1) Location and approximate size of all existing and proposed structures within the site and all buildings and structures within 500 feet;

(2) Proposed points of ingress and egress;

(3) Location and arrangement of all proposed off-street parking;

(4) Other details:

(a) Proposed provisions for fencing and other protective screening at the lot lines adjacent to abutting residential property;

(b) The anticipated service area of the facility to be constructed.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.072 HOSPITALS; REST HOMES; NURSING HOMES.

(A) *Use.* Hospitals, rest homes, homes for the aged, nursing homes.

(B) *Special Use Districts.* RA, RM-10.

(C) *Minimum lot area.* Minimum lot area of district in which located plus 1,000 square feet for each person to be accommodated.

(D) *Parking and loading.*

(1) Nursing homes, rest homes, homes for aged - one space for each three patient beds.

(2) Hospitals - one space per each three patient beds, plus one space for each staff or visiting doctor, plus one space for each two employees on shift of average greatest employment.

(E) *Required plans.* Plans as may be required shall be submitted showing:

(1) Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto;

(2) Proposed points of ingress and egress and pattern of internal circulation;

(3) Layout of parking spaces.

(F) *Other requirements.* Must meet all requirements for licensing by the State of North Carolina. Where located in a residential district, there must be ample site area, adequate open space on all sides of the proposed structure, and other considerations, including landscaping, to the character of the neighborhood so that its residential nature will be preserved.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.073 STORAGE OF FLAMMABLE LIQUIDS (ABOVE GROUND).

(A) *Use.* Storage of flammable liquids in bulk above ground for distribution and wholesale.

(B) *Special Use Districts.* M1, M2.

(C) *Required plans.* Plans as may be required shall be submitted showing:

(1) Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto;

(2) Storage capacity of all storage units;

(3) Proposed layout of pipelines.

(D) *Other requirements.* Written comments and the approval of the Lee County Fire Marshall shall be obtained before a Special Use Permit is granted.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.074 MANUFACTURED HOME PARKS.

(A) *Use.* Manufactured home park; a plot which has been planned or improved for three or more manufactured homes for dwelling or sleeping purposes.

(B) *Special use district.* RA, RM-10.

(C) *Minimum lot size.*

(1) Thirty thousand square feet with individual well and septic tank; 40,000 square feet inside watershed.

(2) Fifteen thousand square feet with individual septic tank and public or community water system; 40,000 square feet inside watershed.

(3) Seven thousand, five hundred square feet with individual well and public community sewer; 12,500 square feet inside watershed.

(4) Seven thousand, five hundred square feet with public or community water and sewer system; 12,500 square feet inside watershed.

(5) Any and all lot sizes may be increased by the Planning Board to protect public health, safety, and welfare.

(D) *Setbacks and buffers.*

(1) Twenty foot minimum setback for all manufactured homes from front lot line of park. This area may be used for required parking.

(2) Twenty foot minimum clearance between manufactured homes.

(3) Twenty-five foot minimum setback from adjoining property lines.

(E) *Site development and parking.*

(1) Off-street parking spaces shall be provided with each manufactured home park at a ratio of at least two spaces per lot, the minimum of which shall be at least nine feet by 18 feet.

(2) Manufactured homes shall be located so that there is at least 20 feet clearance between mobile homes.

(3) Each manufactured home park shall have located at its primary entrance a permanent non-lighted sign, not to exceed 12 square feet, indicating the park name.

(4) Each proposed lot in a manufactured home park shall be clearly marked by a permanent lot number sign or marker that identifies each manufactured home lot. The lot number shall be such that the location is readily identifiable by emergency personnel and inspectors. The lot number sign or marker shall be located on each manufactured home park lot or on each manufactured home, but the method must be consistent throughout the park. Numbers shall be at least three inches high and ½-inch wide, with a reflective surface.

(5) Manufactured home park lots shall be properly staked.

(F) *Roads and street systems.* Roads shall be constructed to the North Carolina Department of Transportation, Division of Highways minimum standards. The March 1, 1983 pamphlet, "Subdivision Roads, Minimum Construction Standards," can be used as a guideline with the following exceptions:

(1) Roads do not have to be paved in manufactured home parks when lots exceed 15,000 square feet.

(2) In those cases, the base can be reduced to four inches of stabilized material. All roads within new parks or additions to existing packs shall have a 45-foot minimum right-of-way and a four-inch minimum stabilized base.

(G) Application process, plans required.

(1) The developer shall submit an application for a Special Use Permit and sketch plan to the Zoning Administrator.

(2) The developer shall submit the sketch plan to the Health Department for preliminary property evaluation. Modifications to the sketch plan may be necessary.

(3) The developer shall take the modified sketch plan to a registered surveyor for separation of a survey plat. The plat shall be drawn to scale on a map no larger than 24 x 36 inches and shall clearly set out the following may be required.

(a) The name of the proposed park, the names and addresses of the owners, and the name and address of the surveyor.

(b) The plat shall contain a smaller general location map which indicates the township and school district of the proposed park.

(c) Date, graphic scale, and approximate north arrow.

(d) Boundaries of the tract shown with bearings and distances.

(e) Site plan showing streets, driveways, open areas, parking spaces, service buildings, water courses, easements, and all structures to be located on the park site and all existing structures.

(f) Surface water drainage plan for topography of site, where new roads may require it.

(g) The number, size, and location of all manufactured home spaces.

(h) The plat shall state the source of water and sewer supply and type of distribution system.

(i) If appropriate, the plat shall show the location and specifications of water taps, sewage disposal connections, and other facilities on each manufactured home park space, if required by the Health Department.

(j) The plat shall indicate the names and addresses of all adjoining property owners or residents of adjoining occupied residences.

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(4) The developer shall take the survey plat to the Health Department for individual lot evaluations.

(5) The Health Department shall issue a letter of survey plat approval to the developer. Before issuing this letter of approval, the Health Department may require letters of approval from state and/or federal agencies.

(6) The developer shall submit the Health Department's letter of survey plat approval, six copies of the survey plat, and a \$50 application fee to the Zoning Administrator.

(7) The Zoning Administrator shall set and advertise (at least 15 days prior to the hearing) a date and time for a public hearing before the Planning Board for the purpose of considering the Special Use Permit application. At least 15 days prior to the hearing, the Zoning Administrator shall also mail to adjoining property owners notice of date, time, and place of the hearing.

(8) At the hearing, the Planning Board shall consider evidence as to whether proposed development complies with regulations of this chapter and whether the proposed development would be detrimental to the public safety, health, and welfare. If no such evidence is found, the Planning Board shall issue a Special Use Permit.

(H) Procedures after permit is granted.

(1) The Zoning Administrator shall send a copy of the survey plat to the Division of Land Quality, North Carolina Department of Environment, Health, and Natural Resources, when it is deemed necessary.

(2) Following issuance of the Special Use Permit, the Health Department shall release improvement permits to the developer, who may then begin development.

(3) After road construction has been completed, the developer shall notify by letter, the Zoning Administrator, that all new roads have been built to all North Carolina Department of Transportation standards as a public road, with the exception of paving.

(4) When all improvements as required by this chapter have been completed, a Certificate of Manufactured Home Park Operation shall be issued. The Certificate of Manufactured Home Park Operation shall be signed by the Zoning Administrator and the Health Director certifying that the manufactured home park is in compliance with all county and state regulations. This shall apply to new parks or expansions to existing parks. The manufactured home park developer may then begin placing manufactured homes in the park.

(5) The manufactured home park developer may begin placing manufactured homes in the park before all improvements have been completed and a Certificate of Manufactured Home Park Operation has been issued, if the Planning Board grants a waiver allowing the posting of a performance

bond that ensures completion of improvements. In granting this waiver, the Planning Board shall find that the public welfare, safety, and health will not be endangered. In those cases where a performance bond has been posted and required improvements have not been installed within the terms set by the Planning Board, the Board may declare the bond in default and require all improvements to be installed. The town may take such actions necessary to collect on the defaulted bond and provide for completion of the required improvements.

(I) *General requirements applicable to manufactured home park owners.*

(1) *Erosion control.* An erosion control plan which provides information as specified in the regulations of the Land Quality Section of the North Carolina Department of Environment, Health, and Natural Resources shall be submitted to the state agency for all manufactured home parks where one or more acres of land is disturbed.

(2) *Manufactured home park ownership.* Manufactured home park operators shall be required under this chapter to specifically comply with G.S. § 105-316(a)(1), which requires that each year manufactured home park operators furnish the County Tax Supervisor with the name of the owner and a description of each manufactured home located in the park.

(3) *Sale of parks or lots.* Manufactured home parks may not be sold or transferred unless the existing water and sewer systems meet Health Department standards. Individual spaces in a manufactured home park may not be sold unless the individual lot size and road construction meet all county and state regulations.

(4) *Animal control.* Manufactured home park owners shall establish park regulations to ensure adequate control of animals.

(5) *Garbage disposal.* The collection of trash and garbage and their disposal shall be provided for in such a manner as to maintain a clean and orderly appearance.

(6) *Fencing of private sewage treatment plants.* Private sewage treatment plants as approved by the Division of Environmental Management, North Carolina Department of Environment, Health, and Natural Resources, shall be required to be enclosed with a chain link fence a minimum of seven feet in height and locked when the plants are unattended. These requirements shall be retroactive to include existing private sewage treatment plants within Lee County areas of jurisdiction within 180 days from adoption of this amendment.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.075 GROUP HOME.

(A) *Use.* Group Home.

(B) *Special use districts.* RA, RM.

(C) *Minimum lot area.* In accordance with district where located.

(D) *Parking and loading.* One space for every five temporary residents or fraction thereof, plus one parking space for each employee on the premises.

(E) *Other requirements.*

(1) One sign permitted, not to exceed three square feet in area.

(2) All group homes shall be licensed and/or sponsored by the appropriate state or local agency.

(3) The zoning lot on which one rehabilitation residence is proposed shall not be located within a ½-mile radius of a zoning lot containing another such facility.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.076 RURAL OCCUPATIONS OF COMMERCIAL NATURE.

(A) *Use.* Rural family occupations of commercial nature.

(B) *Special use district.* RA.

(C) *Minimum lot size.* One-half acre.

(D) *Other Requirements.*

(1) Owner must reside on property on which the business is located. (Note: Unlike home occupations, Rural Family Occupations of Commercial Nature may be conducted within an accessory building.)

(2) Business use must be set back at least 50 feet from road right-of-way.

(3) Business use shall not create any noxious fumes, odors, traffic congestion, or other nuisance factors.

(4) Restrictions as to fencing, indoor storage, and other appearance criteria may be added as necessary.

(E) *Signs.* Signs on premises shall be regulated as follows:

(1) Type sign: identification.

(2) Permitted number: one ground sign per road front or one wall sign affixed to front of business use structure.

(3) Permitted sign area: nine square feet for ground sign; 12 square feet for wall sign.

(4) Permitted illumination: none.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.077 SANITARY LANDFILL.

(A) *Use.* Sanitary landfill.

(B) *Special use district.* RA.

(C) *Screening.* Screening is required which completely screens the landfill from view along road frontages and property boundaries which border residential uses. Screening shall be thickly planted evergreens in a border at least ten feet wide. Trees shall be of such height when planted that they shall reach a height of ten feet in two years.

(D) *Plans.* All plans and environmental clearances shall be approved by the North Carolina Department of Environment, Health, and Natural Resources and the Lee County Health Department.

(E) *Signs.* Signs on premises shall be regulated as follows:

(1) Type sign: identification.

(2) Permitted number: one ground sign per entrance.

(3) Permitted sign area: nine square feet.

(4) Permitted illumination: none.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.078 AMUSEMENTS; OUTDOOR COMMERCIAL.

(A) *Use.* Amusements, out-of-doors commercial, for example, shooting ranges, fairgrounds, race tracks, excluding automobile race tracks.

(B) *Special use districts.* RA, B-1.

(C) *Minimum area.* Two acres.

(D) *Site considerations.*

- (1) Such uses shall have direct access to a paved state-maintained road.
- (2) A 50-foot buffer strip shall be provided around the entire perimeter of the site.
- (3) Off-street parking shall be provided in accordance with §§ 153.110 - 153.113. Signs shall comply with §§ 153.125 - 153.136.

(E) *Required plans.* Plans shall be submitted and shall show:

- (1) Topography of the site, at contour interval no greater than five feet;
 - (2) Dimensions of the property and adjacent lots and streets;
 - (3) Location and proposed use of all buildings with dimensions and ground area thereof;
 - (4) Streets, traffic circulation, and parking areas with spaces;
 - (5) Service areas, off-street loading facilities, service drives, and dimensions thereon;
 - (6) Size and location of signs;
 - (7) A title, giving the names of the developers, the date, the scale of the plan, and the person or firm preparing the plan;
 - (8) Proposed landscaping, with property buffers between other uses;
 - (9) Erosion and sedimentation plan.
- (Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.079 QUARRY AND MINING OPERATIONS.

(A) *Use.* Quarry and mining operations.

(B) *Special use district.* RA.

(C) *Minimum area.* Five acres.

(D) *Site considerations.*

- (1) Such uses shall have direct access to a paved state-maintained road.

(2) All streets and roads on the site shall be prepared to reduce noise, dust, and noxious fumes from invading surrounding properties.

(3) Minimum yards shall be 50 feet, which shall be used for landscaping and screening.

(4) The excavated area shall be surrounded with a six-foot-high fence.

(E) *Required plans.* Plans shall be submitted and shall show:

(1) Topography of the site, at contour interval no greater than five feet;

(2) Dimensions of the property and adjacent lots and streets;

(3) Location and proposed use of all buildings with dimensions and ground area thereof;

(4) Streets, traffic circulation, and parking areas with spaces;

(5) Service areas, off-street loading facilities, service drives, and dimensions thereon;

(6) Size and location of signs;

(7) A title, giving the names of the developers, the date, the scale of the plan, and the person or firm preparing the plan;

(8) Proposed landscaping, with property buffers between other uses;

(9) Erosion and sedimentation plan.

(F) *Signs.* Signs on premises shall be regulated as follows:

(1) Type of sign: identification.

(2) Permitted number of signs: one ground sign per entrance to the storage yard.

(3) Maximum area of ground sign: 50 square feet.

(4) Permitted illuminations: indirect lighting, non-flashing illumination, and motionless.

(5) Permitted locations: within the bounds of the property.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.080 MANUFACTURED HOME FOR HARDSHIP.

(A) *Use.* Manufactured home for hardship.

(B) *Special use districts.* RA, RR-20, RR-12, RM-10.

(C) *Minimum area.* Same as district requirements.

(D) *Site considerations.* The manufactured home is not the principal dwelling on the lot and it complies with the following requirements:

(1) A temporary permit for parking a manufactured home for use for dwelling purposes to the rear or side of a dwelling and located on the same residential lot as said dwelling may be issued by the Zoning Administrator, or his authorized agent, in certain hardship cases where the Town Board finds each item below as a fact:

(a) That the person or persons occupying the manufactured home are physically dependent upon the person or persons occupying all or a portion of the principal dwelling unit, or that the person or persons occupying all or a portion of the dwelling unit are physically dependent upon the person or persons occupying the manufactured home;

(b) That the person or persons occupying the manufactured home and/or dwelling unit cannot, because of financial or other condition to avoid hardship, necessitating parking the manufactured home adjacent to the dwelling unit;

(c) That the parking of the manufactured home adjacent to the dwelling unit will not create unhealthy or unreasonable living standards; and,

(d) That the manufactured home is parked in a location where it can be served by the town's water and sewer system or by a water and sewer system approved by the Lee County Health Department.

(2) All such permits shall be valid for a period of two years, after which they shall be renewed only upon a similar finding of facts by the Board of Adjustment. If, during any time that a permit is valid and outstanding, any of the foregoing conditions cease to be complied with, or the hardship is removed, the permit shall automatically be revoked and the manufactured home removed.

(3) Other requirements for hardship exceptions:

(a) Manufactured homes used as a dwelling shall have at least 400 square feet of gross floor area.

(b) Manufactured homes located through the issuance of a Conditional Use Permit must comply with the provisions pertaining to a manufactured home foundation and anchorage of the

manufactured home to the foundation contained in the State of North Carolina Regulations for Mobile Homes, 1972 Edition.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.081 SEXUALLY EXPLICIT ENTERTAINMENT ESTABLISHMENTS.

(A) *Use.* Sexually explicit entertainment establishments. Buildings, other structures or tracts of land, whether public or private, upon which the principal activity is considered to be of a sexually explicit nature. Such activities shall include, but are not limited to, the sale, display, or transfer of pornographic literature, material, or paraphernalia, the visual display of such material for entertainment purposes, the visual display of the human body in a sexually explicit manner for purposes of entertainment, profit, or other commercial purposes.

(B) *Special use district.* B-1, M-1.

(C) *Minimum area.* In accordance with district where located.

(D) *Site considerations.*

(1) Such uses shall not be located within 1,000 feet of any existing residence, residential district, school, or church.

(2) Such uses shall have direct access to a paved state-maintained road.

(3) A 50-foot buffer strip shall be provided around the entire perimeter of the site.

(4) Off-street parking shall be provided in accordance with §§ 153.110 - 153.113.

(5) The developer must provide other information necessary to determine the impact of the establishment to adjacent properties, to the surrounding community, and traffic in the area, as well as provide other necessary site plans, when required by the Planning Board and/or planning staff.

(E) *Signs.* Signs on premises shall be regulated as follows:

(1) Type of sign: identification.

(2) Permitted number of signs: one ground sign.

(3) Maximum area of ground sign: 15 square feet.

(4) Permitted illuminations: indirect lighting, non-flashing illumination, and motionless.

(5) Permitted locations: within the bounds of the property.
(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.082 GARAGE APARTMENTS; GRANNY FLATS.

(A) *Use.* Garage apartments, “granny flats.”

(B) *Special use district.* RA, RR-20, RR-12, RM-10.

(C) *Minimum area.* Same as district requirements.

(D) *Site considerations.* The garage apartment or “granny flat” is not the principal dwelling on the lot and it complies with the following requirements:

(1) That the garage apartment or “granny flat” be constructed in compliance with all applicable building code regulations;

(2) That the garage apartment or “granny flat” be located where it may be served by the town’s water and sewer system or by a water and sewer system approved by the Lee County Health Department;

(3) That the location of a garage apartment or “granny flat” not create unhealthy or unreasonable living standards;

(4) That the garage apartment or “granny flat” not be located within the required setbacks of the principal dwelling;

(5) That off-street parking be provided in accordance with §§ 153.110 - 153.113.

(E) *Required plans.* Plans as may be required shall be submitted showing:

(1) Location and approximate size of all existing and proposed buildings and structures within the site, and their distance from the property lines and from other existing and proposed structures;

(2) Proposed points of ingress and egress;

(3) Layout of parking spaces; and

(4) Location of sewer and water system.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.083 TELECOMMUNICATION TOWERS.

(A) *Special use districts.* B-1, B-2, M1, M2.

(B) *Purpose and intent.* It is the intent of the town to allow telecommunication towers for mobile

telephone services and other radio and television information services which provide for the needs of its citizens while minimizing adverse visual and operational effects of such towers through careful design,

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placement, and screening; to avoid potential damage to adjacent properties from tower failure and falling ice; and to maximize the use of any existing towers and to reduce the number of new towers which are needed. Additionally, it is the intent of this section to encourage the co-location of antennas on existing towers and structures in Broadway's planning jurisdiction where possible in order to reduce the number of new telecommunication towers needed in the community.

(C) *Definitions.*

ANTENNA, MICROWAVE. Any antenna, excluding any supporting structure, designed to send or receive signals from any microwave transmitter or receiver.

ARCHITECTURALLY INTEGRATED TOWER. A tower which is adequately disguised by the structure on which the antenna is located so as to disguise or camouflage the tower in such a manner so that the structure housing the tower takes on the appearance of a structure other than a telecommunication tower. Additionally, the design and materials used on the structure and its exterior materials must blend harmoniously with the buildings and use of the host sight.

CONCEALED TELECOMMUNICATION TOWERS. Telecommunication towers and associated equipment, which are totally concealed within a building or structure, so that they are architecturally indiscernible, shall not be considered towers for transmitting and receiving electronic signals.

OFF-SITE. For the purposes of regulating the location of telecommunication towers as described in this section, off-site location shall mean any site not owned or leased by the owner or operator of the telecommunications tower; however, this definition shall not include any property contiguous to the property on which a telecommunications tower is physically located if said property is:

(a) Owned or leased by the owner or operator of the telecommunications tower, or directly associated with the operation maintenance or ownership of the tower; or

(b) Owned by the lessor of the property on which the telecommunications tower is located.

TOWER, RADIO AND TV/TELECOMMUNICATION TRANSMISSION. A structure of wires, poles, rods, reflecting disks, or similar devices used for transmitting or receiving television or radio signals, excluding satellite dish antennas.

TOWER, TELECOMMUNICATIONS. A structure designed to support antennas used for transmitting or receiving commercial telephone communications and/or commercial telecommunications (amateur or ham radio towers are not included in this definition).

(D) *Minimum lot area.* The minimum lot size shall comply with the minimum requirement of the Broadway Subdivision Ordinance and § 153.048, Table of Dimensional Requirements. This provision is not intended to apply to ground leases or licenses solely for the use of telecommunication towers, antennas, or equipment.

(E) *General requirements for all towers and associated equipment.*

(1) Towers shall not interfere with normal radio and television reception in the vicinity. No tower shall display any sign, banner or any message. Violations shall be considered zoning violations and shall be corrected under the enforcement provisions of § 153.999.

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(2) Telecommunication antennas may be permitted in any zoning district as a use by right when co-located on existing towers or on public elevated water supply storage tanks.

(3) Towers shall be constructed and maintained in conformance with all applicable building code requirements.

(4) The tower owner shall provide documentation indicating that the power output levels do not exceed federally approved levels or American National Standards Institute (ANSI) standards, whichever provides the stricter requirements.

(5) Towers greater than 75 feet in height shall be located a minimum distance of 1,000 feet from another tower greater than 75 feet in height measured in a straight line between tower centers.

(6) The tower shall be designed and constructed to accommodate one additional user if the tower is between 125 feet and 180 feet from the finished grade elevation. If the height of the tower exceeds 180 feet in height, the tower shall be designed and constructed to accommodate a minimum of two additional users.

(7) The tower site shall include adequate area to accommodate the accessory buildings and equipment of all intended users.

(F) *Application requirements for telecommunication towers.* The following information must be supplied with a special use permit application for all telecommunication towers as defined by this section:

(1) Site, elevation, and landscape plans drawn to scale showing all setbacks, buffers, easements, buildings, fences, height of the tower (including antennas, lightning rods and paraphernalia), any accessory structures as well as any additional information deemed appropriate by the Zoning Administrator, Board of Commissioners or Planning Board.

(2) Identification, address, and telephone number of the intended user(s) of the tower.

(3) Proof of ownership and/or easement agreement(s) for the land where the tower is located, including means of ingress and egress.

(4) Proof of authorization to use the site if the land is not owned.

(5) A report including a description of the tower with technical reasons for its design.

(6) Documentation provided by a registered engineer indicating the number of additional users that the tower has sufficient structural integrity to accommodate.

(7) Documentation by the applicant that no suitable existing facilities within the coverage area is available to the applicant. Documentation may include maps, letters from adjacent tower owners, or calculations. Facilities include other towers, or other buildings or structures.

(8) Documentation that the worst case configuration meets the most recent ANSI *Radio Frequency Protection Guide* for power density.

(9) Documentation that the tower lighting will not exceed the Federal Aviation Administration's (FAA) minimum standards and the standards of this section.

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(10) Copy of completed FAA Form 7460-1, Notice of Proposed Construction or Alteration, and any FAA responses thereto. Failure on the part of the applicant to ultimately obtain a finding by the FAA that the tower will not pose a hazard to air navigation shall result in revocation of the special use permit.

(11) Evidence that the Sanford-Lee County Regional Airport Authority has been notified of the proposed tower, that the tower will not exceed the standards of the Sanford-Lee County Airport Hazard Ordinance, and that the tower will not pose a hazard to any private airport.

(12) Evidence that owners of residentially zoned or used property located within 300 feet of the base of towers have been notified of the proposal.

(13) A statement indicating the owner's intent to allow shared use of the tower and how many additional users may be accommodated.

(14) An analysis of the area containing existing topographical contours. Include a copy of the USGS topographic quadrangle with the tower site identified including latitudinal and longitudinal coordinates.

(15) A visual depiction and summary of locations within a three-mile radius where any portion of the proposed tower is visible.

(16) A computer simulation or an artist's rendering of the proposed tower and site or a photograph of a tethered balloon floated to the height of the proposed tower. The location from which the photograph or view is taken shall be determined by the Zoning Administrator.

(17) Documentation of the tower owner's financial responsibility.

(G) *Minimum setback requirements.* Towers shall conform to the following dimensional requirements:

(1) On top of structures: The tower shall not be more than 30% of the building height above the building, or 75 feet above the building, whichever is less. The building or structure shall maintain the normal setbacks of the zone.

(2) Finished grade elevation:

(a) If the top of the tower is 75 feet high or less, normal setbacks for the zoning district for structures shall apply.

(b) If the top of the tower is more than 75 feet high, and:

1. Adjacent to, or separated by a public right-of-way from, property which is residentially zoned or used, the setback of the tower base from adjacent property lines shall be two times the tower height for guyed and lattice towers and one time the tower height for monopole towers or the setback of the zoning district, whichever is greater;

2. Adjacent to, or separated by a public right-of-way from property which is nonresidentially zoned or used, the setbacks shall be as follows: the setback of the tower base from a property line adjacent to nonresidential property shall be at least 50 feet, and an additional one foot for

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every foot of tower height over 150 feet. (Example: 75 ft. tower height = 50 ft. setback; 100 ft. to 150 ft. tower height = 50 ft. setback; 160 ft. tower height = 60 ft. setback; 175 ft. tower height = 75 ft. setback). The setback from a public right-of-way which separates the tower site from nonresidential property shall be a minimum of 50 feet or one-half the tower height; whichever is the greater setback.

(H) *Co-location requirements.*

(1) To encourage shared use of towers, applicants may apply for reduction of setbacks. Applications for towers, which will operate with more than one user immediately upon completion, may request reduced setbacks from adjacent nonresidential property. The approving authority may reduce the setback from adjacent nonresidential property by 25% when two users commit to occupy the tower immediately upon its completion or may reduce the setback by 50% when three or more users commit to occupy the tower immediately upon its completion. However, the required setback distance may not be reduced to less than 50 feet.

(2) To further encourage co-location, additional antennas and associated equipment, which do not add to the tower height, may be added to existing towers with administrative approval by the Zoning Administrator. Applicants need to provide the information required by divisions (F)(2), (4), (5), (6), (8), (10), and construction drawings.

(3) To encourage the location of towers on governmental structures, applicants need only provide the information required by divisions (F)(2), (4), (5), (6), (8), and (10) of this section. These towers may be allowed with administrative approval by the Zoning Administrator.

(I) *Concealed towers.* Concealed towers may be permitted in all zoning districts, subject to the issuance of a permit by the Zoning Administrator. For additions to existing structures and for architectural features that are exempt from the height requirements of this section, the Zoning Administrator shall consider whether the addition or feature containing the antenna is architecturally harmonious in such aspects as material, height, bulk, scale, and design with the building or complex of which it is a part, and if it is a stand-alone structure, whether or not such structure is harmonious with the surrounding area. If the Zoning Administrator denies approval of the concealed tower, the applicant may appeal the decision to the Board of Adjustment as an appeal of an administrative decision. A Board of Adjustment review shall only consider the architectural aspects of the Zoning Administrator's decision listed above. In addition, such structures associated with the telecommunication antenna and equipment shall:

- (1) Meet all other applicable requirements of this section.
- (2) Not interfere with normal radio and television reception in the vicinity.
- (3) Be constructed and maintained in conformance with all applicable building requirements.

(4) Not exceed federally approved output levels or ANSI *Standards for Power Density*; whichever provides the more stringent requirements. The owner shall submit documentation that such power output levels will not be exceeded.

(J) *Lighting requirements.* Lighting shall not be permitted unless required by the FAA. If lighting

is required, it shall not exceed the FAA minimum. Strobes shall not be used for nighttime lighting unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding

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residential property, consistent with FAA requirements. Prior to issuance of a building permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.

(K) *Fencing and landscaping requirements.*

(1) Fencing shall be required for each site around the base of the tower, any structures or guy wires. The composition of the fencing shall be determined by the Board of Commissioners.

(2) The base of the tower, any guy wires, and any structures, walls, or fences shall be landscaped by any combination of hardwood, evergreen trees, or shrubbery which upon reaching maturity provides a visually impenetrable barrier.

(3) The site developer may have the option of:

(a) Providing the landscape buffer around the tower base, guy wires and accessory structures; or

(b) Providing a buffer around the perimeter of the entire site.

(L) *Abandonment, obsolescence, financial responsibility requirements.*

(1) A tower that is not used for a period of at least six months shall be determined to be abandoned and shall be removed, by the owner, within 90 days after notice by the Zoning Administrator.

(2) The owner of the tower shall remove any abandoned, obsolete, unused, or structurally unsound tower within 90 days after notice by the Zoning Administrator or Building Inspector when said tower is detrimental to the health and safety of the public. When said tower is structurally unsound, the Building Inspector may establish a shorter period of time for the removal of a tower.

(3) To assure the removal of towers which do not meet requirements for use or maintenance:

(a) A statement of financial responsibility meeting the standards of the town shall be submitted for each tower over 100 feet.

(b) A performance bond in an amount fixed by the Board of Commissioners shall be posted for each tower. The bond shall be renewed annually and a certificate of renewal submitted for as long as the tower remains in place.

(c) Removal costs shall be charged to the tower owner. In the instance of the financial insolvency of the tower owner, removal cost shall be assessed as a lien and collected as unpaid taxes. (Ord. 05-1, passed 2-28-05) Penalty, see § 153.999

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NONCONFORMING USES**§ 153.095 INTENT; AVOIDANCE OF UNDUE HARDSHIP.**

(A) Within the districts established by this chapter, there may exist lots, structures, and land uses which were lawful before this chapter was passed but which would be prohibited or restricted under the terms of this chapter. It is the intent of this chapter to permit those nonconforming uses to continue until they are removed, but not to encourage their continuation. Such lots, structures, and uses of land shall be termed nonconforming, and shall be subject to the following provisions.

(B) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, provided that actual construction work shall be diligently carried on until the completion of the building involved.

(Ord. passed 6-10-91)

§ 153.096 VACANT LOTS.

This category of nonconformance consists of vacant lots for which plats or descriptions have been recorded in the Office of the Register of Deeds, which at the time of adoption or amendment of this chapter, fail to comply with the dimensional requirements for the districts in which they are located. Any such nonconforming lot may be used for any of the minimum uses permitted by this subchapter for the district in which it is located provided that it meets the yard requirements of that district.

(Ord. passed 6-10-91)

§ 156.097 STRUCTURES.

This category of nonconformance consists of structures existing at the time of adoption or amendment of this chapter, whose size or location does not conform with the yard, height, lot area, lot coverage, or other dimensional provisions of this chapter or any amendment thereto. Such structures may remain and their conforming use may continue, provided that any enlargement to such structures must conform to all applicable requirements of this section. If such structures are damaged or destroyed by fire, explosion, or other calamity, they may be reconstructed, provided that when reconstructed they comply with all applicable requirements of this chapter. If a nonconforming structure is moved from its location, it can only be replaced with a structure which conforms with the district regulations.

(Ord. passed 6-10-91)

§ 153.098 USES OF LAND.

This category of nonconformance consists of lots used for storage and salvage yards, used car lots, auto wrecking, and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use is not permitted to be established hereafter, under this chapter or amendment thereto in the district in which it is located.

(A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

(B) No nonconforming use may be changed to another nonconforming use;

(C) Where any nonconforming use of land, in part or whole is made to conform to the regulations for the district in which it is located, the part or whole which has been made to conform may not thereafter be changed in such a manner as would be nonconforming;

(D) Nonconforming uses shall not be re-established after discontinuance for a period of 180 days, except in conformance with this chapter.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.099 USES OF STRUCTURES OR BUILDINGS.

This category of nonconformance consists of buildings or structures used at the time of enactment of this chapter or amendment thereto for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

(A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(C) No nonconforming use may be changed to another nonconforming use, except that the Town Board may permit as a conditional use a change in nonconforming use if the Board finds that such new use would be more in character with the uses permitted in the district than the previous use, provided that once the Town Board has permitted such substitution, the new use shall lose its status as a legal nonconforming use and become subject to any conditions required by the Town Board. Once such change has been made, use of the structure may not revert to the previous nonconforming use.

(D) Where any nonconforming structure or use in part or whole is made to conform to the regulations for the district in which it is located, the part or whole which has been made to conform may not thereafter be changed in such a manner as would be nonconforming.

(E) If a nonconforming use is discontinued for a period of 180 consecutive days or for more than 18 months in any three-year period, the future use of the building or land must be a conforming use.

(F) Maintenance and repairs necessary to keep a structure housing a nonconforming use in sound condition shall be permitted.

(G) Should a nonconforming structure be destroyed by any means to an extent of more than 65% of its replacement value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.100 MANUFACTURES HOMES ON INDIVIDUAL LOTS.

Existing nonconforming manufactured homes on individual lots may be replaced with manufactured homes when they meet all of the following requirements:

(A) When moved, they must be replaced with a Class A or Class B manufactured home not more than ten years old, except in the RR-20 District, replacement only with a Class A manufactured home will be allowed.

(B) When moved, the home must be replaced within 180 days of the date it was moved off of the lot.

(C) The replacement home must meet the yard requirements of the zoning district.
(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.101 MANUFACTURED HOME PARKS.

(A) Manufactured homes in nonconforming manufactured home parks may be replaced when they meet all of the following requirements:

(1) When removed, they must be replaced with a Class A or Class B manufactured home not more than ten years old.

(2) The replacement home shall be placed on the lot or space so that it is at least 15 feet from all exterior property lines and from any other structure.

(B) Manufactured home parks which were conforming before the adoption of this chapter, and which become nonconforming when this chapter becomes effective, shall be allowed to fill any vacant manufactured home spaces with a Class A or Class B manufactured home not more than ten years old.
(Ord. passed 6-10-91) Penalty, see § 153.999

OFF-STREET PARKING AND LOADING**§ 153.110 OFF-STREET PARKING REQUIRED.**

Required off-street parking shall be provided on every lot or within a distance of 500 feet from the lot if such parking space cannot be reasonably provided on that lot. Each application for a Certificate of Occupancy/Compliance shall include information as to:

(A) Location and dimensions of off-street parking and loading space;

(B) Distance between that parking/loading space and the street or alley; and,

(C) Ingress and egress of the property.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.111 SIZE AND ANGLE OF SPACES.

An off-street parking space shall not be less than the size required below for the angle parking shown.

<i>Angle</i>	<i>Stall Width</i>	<i>Curb Length Per Car</i>	<i>Stall Depth</i>
0°	9 ft.	23 ft.	8 ft.
20°	9 ft.	23½ ft.	14 ft.
30°	9 ft.	16 ft.	16½ ft.
45°	9 ft.	11 ft 4 in.	19 ft. 2 in.
60°	9 ft.	9 ft. 4 in.	20½ ft.
70°	9 ft.	8½ ft.	20 ft. 10 in.
90°	9 ft.	8 ft.	19 ft.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.112 SCHEDULE OF REQUIRED PARKING SPACES.

(A) The following off-street parking spaces shall be provided:

<i>USE</i>	<i>REQUIRED OFF-STREET PARKING</i>
Residence, single-family	Two spaces
Residence, duplex	Four spaces
Residence, multi-family	2½ spaces for each dwelling unit
Offices	One space for every 250 square feet of gross floor area
Retail business	0.7 of a space for every 100 square feet of gross floor area (one space minimum)
Churches	One space for every four seating spaces in principal sanctuary
Auditorium, stadiums, and theaters	One space for every five seats
Motels, tourist homes, and boarding houses	One space for every rental room
Hospitals and nursing homes	One space for bed space
Medical clinics	Four spaces for each doctor plus one space for each employee
Wholesale establishment, warehouse, and other businesses not catering to retail or package trade	One space for every two employees during maximum employment and one space for every truck to be stored or stopped simultaneously
Industries	One space for every 1½ employees during maximum employment and one space for every truck to be stored or stopped simultaneously
Institutions and clubs	One space for every five seats in principal assembly room
Community or private swimming clubs	One space for every three memberships
Dwelling unit having home beauty or barber shop	Two additional spaces

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<i>USE</i>	<i>REQUIRED OFF-STREET PARKING</i>
Day care center	One space for each adult attendant and one space for every six children or fraction thereof
Elementary or junior high school	Three spaces for each room used for administrative offices or classroom instruction, or one space for each six seats in auditoriums and other places of assembly or facilities available for the public, whichever is greater
Senior high school	One space per school employee and one space per four students
Restaurants or other eating places	One space for each four seats

(B) Special situations shall be handled by the Board of Adjustment. The Board of Adjustment shall make the final determination as to the number of spaces to be required, but shall in all cases give due consideration to the needs.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.113 OFF-STREET LOADING REGULATIONS.

(A) *Responsibility.* The duty to provide the off-street loading space herein required shall be the joint responsibility of the owner and operator of the structure or structures for which off-street loading space is required. The space shall be provided in accordance with the table below and all off-street loading spaces shall be designed so that the vehicles loading and unloading shall not set upon or cross any public street or alley right-of-way. All off-street loading spaces shall be at least 12 feet wide, 30 feet long, and have an overhead clearance of 14 feet.

(B) *Schedule of required space.*

<i>USE CLASSIFICATION</i>	<i>SPACE REQUIREMENTS</i>
Retail operation with a total usable floor area of 20,000 square feet or more devoted to such purposes	One space for each 20,000 square feet of floor area. In stores having over 20,000 square feet of floor area, maximum requirements shall be two spaces per store.
Retail operations and all first floor nonresidential uses with a gross floor area of less than 20,000 square feet and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet	One space
Office buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes	One space for each 100,000 square feet of floor area
Industrial and wholesale operations with a gross floor area of 10,000 square feet or over, and as follows:	Minimum number of loading berths required:
10,000 - 40,000 sq. ft. 40,000 - 100,000 sq. ft. 100,000 - 160,000 sq. ft. 160,000 - 240,000 sq. ft. 240,000 - 320,000 sq. ft. 320,000 - 400,000 sq. ft. Each 90,000 sq. ft. above 400,000	1 2 3 4 5 6 1

(Ord. passed 6-10-91) Penalty, see § 153.999

SIGNS

§ 153.125 SIGN COMPLIANCE.

No type of exterior sign may be erected, posted, reposted, placed, replaced, hung, painted, or repainted in any district except in compliance with this chapter.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.126 VISION CLEARANCE; SIGNS PROHIBITED IN RIGHT-OF-WAY; DISTANCE FROM STREET.

(A) No sign shall be erected or constructed to interfere with vision clearance at any street or road right-of-way.

(B) No sign except those erected for governmental purposes shall be permitted on any public right-of-way.

(C) All signs shall be at least five feet from street right-of-way. Any sign less than two feet from right-of-way after street widening may remain if, in the opinion of the Board of Adjustment, said sign would not encumber the free and easy movement of traffic.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.127 MAINTENANCE OF SIGNS.

All signs, together with any supports, braces, guys, and anchors shall be kept in good repair. Signs shall meet all structural requirements of the State Building Code.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.128 ILLUMINATED SIGNS.

Illuminated signs shall be limited to those lighted from behind to silhouette letters and figures and illuminated internally, except spotlighted signs will be permitted if no glare is cast where disturbing to motorists or where it reflects on any property in separate ownership. Except for time or temperature units, no flashing or neon signs shall be permitted. All illuminated signs or structures shall be placed so as to prevent the light rays or illumination from being cast directly on any dwelling.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.129 HEIGHT RESTRICTION FOR GROUND SIGNS.

No ground sign may exceed 35 feet in height above ground level, or grade level, whichever is higher.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.130 WINDOW SIGNS.

Window signs may be placed only on the inside of any buildings and shall not exceed 25% of the glass area on which the sign is displayed.

(Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.131 IDENTIFICATION SIGNS.

An identification sign shall pertain solely to the name of the principal use of the premises or its operators and shall not advertise products or services which differ in name from the principal use. (Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.132 TIME LIMIT FOR OBSOLETE SIGNS.

No sign shall be maintained for more than 180 consecutive days or 18 months in a three-year period after it has been made obsolete for any reason. (Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.133 MOUNTING RESTRICTIONS; TEMPORARY PERMIT REQUIRED FOR PORTABLE SIGNS.

(A) No signs shall be mounted on the roof of any building.

(B) Signs mounted on a mobile framework, trailer, or other movable apparatus, other than vehicles used for transportation, are called portable signs and are prohibited on a permanent basis. Such portable signs will be permitted on a temporary basis at grand openings, open houses, or special events in any B-1, B-2, or M1 district for a total of 28 days in a calendar year and not to exceed seven days in any one period. Such temporary permits may be obtained from the Zoning Administrator. (Ord. passed 6-10-91) Penalty, see § 153.999

§ 153.134 TABLE OF PERMITTED SIGNS.

(A) *Legend.*

(1) Districts in which particular signs are permitted as a Use-By-Right and no permit is required are indicated by an "X."

(2) Districts in which particular signs are permitted upon procurement of a permit are indicated by a "P."

(3) Districts in which particular signs are permitted as a Special Use upon approval of the Town Board are indicated by a "S."

(4) Districts in which particular signs are prohibited are indicated by a blank.

<i>TYPE OF SIGN</i>	<i>RA</i>	<i>RR-20</i>	<i>RR-12</i>	<i>RM-10</i>	<i>B-1</i>	<i>B-2</i>	<i>MI</i>	<i>M2</i>
9. Construction site placards not exceeding 32 square feet in area and non-illuminated only while construction is taking place on the premises.	X	X	X	X	X	X	X	X
10. Temporary banners, pennants, and streamers if non-illuminated, for a period of not more than two weeks after the opening of a new business. Portable commercial signs not included.					X	X	X	X
11. Signs directing traffic and pedestrians on private property not to exceed ten square feet per sign.	X	X	X	X	X	X	X	X
12. Residential entrance and exit signs, either one not exceeding 12 square feet in area, or two not exceeding nine square feet in area per sign, provided that the sign or pillars do not exceed 35 feet in height.	P	P	P	P	P	P	P	P
13. One on-site identification sign not exceeding 120 square feet in area or 35 feet in height.					P	P	P	P
14. One on-site industrial sign not exceeding 64 square feet in area facing each public street which adjoins the property.							P	P
15. Signs mounted flat against the walls of buildings but not painted directly on the walls, or suspended from a canopy of the bottom of the suspended sign is at least nine feet above the sidewalk level, up to a maximum of two square feet of area per lineal foot of building frontage (only main entrance wall of building used in computing frontage) for all signs of this type together.					P	P	P	P
16. Outdoor advertising signs not exceeding 300 square feet in area or 35 feet in height.					S		S	S

(Ord. —, passed 6-10-91)

BOARD OF ADJUSTMENT**§ 153.145 COMPOSITION.**

The Broadway Board of Commissioners hereby appoints the Broadway Planning Board to serve as the Board of Adjustment. Five Planning Board members shall be appointed to serve as regular members of the Board of Adjustment and three members shall be appointed to serve as alternate members. The alternate members shall consist of a member from Broadway, a member from the extraterritorial area in Lee County, and the member from the extraterritorial area in Harnett County. Each alternate member, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular members, shall have and may exercise all the powers and duties of a regular member. (Ord. —, passed 6-10-91; Am. Ord. 00-1, passed 1-10-00)

§ 153.146 RULES FOR PROCEEDINGS.

The Board shall adopt rules governing its organization and for all proceedings before it. Such rules shall provide and require the following in addition to such other rules and regulations the Board shall adopt:

(A) The Board shall elect a chairman, vice-chairman, and a secretary on an annual basis.

(B) The secretary shall keep detailed minutes of the proceedings. The minutes shall contain relevant facts and testimony of each appeal, the vote of each member on each appeal, abstention from voting and attendance. The minutes shall contain the signature of the secretary and the chairman.

(C) No appeal may be heard unless a quorum is present. A quorum shall consist of six members in attendance.

(D) The notice shall be given to all parties having interest in an appeal.

(E) Any interested party may appear in person, by agent, or by attorney to offer evidence and testimony relative to an appeal.

(F) Fees for filing appeals to the Board of Adjustment shall be in accordance with the fee schedule adopted by the Town Board.

(Ord. —, passed 6-10-91)

§ 153.147 POWERS AND DUTIES OF THE BOARD.

The Board of Adjustment shall have the following powers and duties:

(A) *Administrative review.* To hear and decide any appeal from and review any order, requirement, decision, or determination made by the Zoning Administrator.

(B) *Variances.*

(1) *Special conditions requiring variance.* To authorize upon appeal, in specific cases, such variances from the terms of this chapter which will not be contrary to the public interest. Where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship, a variance from the terms of this chapter may be granted by the Board of Adjustment when a written application demonstrates all of the following:

(a) That the special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district;

(b) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this chapter;

(c) That the hardship is not the result of the applicant's own action;

(d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district;

(e) That, if the applicant complies with the provisions of the chapter, he can secure no reasonable use of his property; and,

(f) That granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(2) *Conditions imposed on variances.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured. Such conditions may be imposed by the Board regarding the location, character, and other features of the proposed building, structure, or use as may be deemed by the Board to protect the property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when under part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(3) *Variance not to conflict with town plans.* In addition to the grounds for granting variance specified by state law, the Board of Adjustment may grant a variance when it finds that the granting of the requested variance will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the Town of Broadway, and will not create any significant obstacle to implementation of the town's Land Use Plan. The Board of Adjustment may attach any conditions to the granting of a variance under this section

which it may find necessary to ensure that the intent and purpose of this chapter are in all respects observed.

(C) *Conditional uses.* To grant conditional use permits in accordance with this chapter.
(Ord. —, passed 6-10-91)

§ 153.148 APPEALS TO THE BOARD OF ADJUSTMENT.

(A) Appeals from the enforcement and interpretation of this chapter and appeals for special use permits or variances shall be filed with the Zoning Administrator, who shall transmit all such records to the Board of Adjustment.

(B) The Board of Adjustment shall fix a reasonable time, not to exceed 30 days, for the hearing of the appeal and publish notice of such hearing in a newspaper of general circulation in Broadway, ten working days prior to the hearing.

(C) The Board of Adjustment, by a vote of at least four-fifths of its members, may reverse any order, requirement, decision, or determination of the Zoning Administrator, or may decide in favor of the applicant a matter upon which the Board is required to pass under the chapter, or may grant a variance from the provisions of the chapter.

(D) Each decision of the Board of Adjustment is subject to review by the County Superior Court. Any appeal to the Superior Court shall be taken within 30 days after the decision of the Board of Adjustment is filed in the office of the Zoning Administrator, or after a written copy of the decision is delivered to the appellant by registered mail, return receipt requested, whichever is later.
(Ord. —, passed 6-10-91)

ADMINISTRATION AND ENFORCEMENT

§ 153.160 ZONING ADMINISTRATOR.

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

(Ord. —, passed 6-10-91)

§ 153.161 ZONING PERMIT.

(A) No building, sign, or structure or any part thereof designed or intended to be used, shall be erected or repaired until a zoning permit has been issued by the Zoning Administrator or his authorized representative. A fee may be charged for the issuance of each zoning permit. The amount of said fee shall be fixed by the Town Board of Commissioners.

(B) Each application for a zoning permit shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon, accurate dimensions of the building or sign to be erected, its location on the lot, and such other information as may be necessary to provide for the enforcement of this chapter. An accurate record of such application and plats, together with a record of the action taken thereon, shall be kept in the Office of the Zoning Administrator.

(C) No permit for excavation or for erection of any building, sign, or part of a building or sign, or for repairs to or alteration of a building, or sign or the relocation of a building or sign from the lot on which it is situated, shall be issued until after a statement to its intended use has been filed by the applicant.

(Ord. —, passed 6-10-91) Penalty, see § 153.999

§ 153.162 CERTIFICATE OF OCCUPANCY.

No land shall be used or occupied and no building, sign, or structure erected or altered shall be used or changed in use until a Certificate of Occupancy/Compliance has been issued by the Zoning Administrator stating that the building, sign, and/or the proposed use complies with the provisions of this chapter. A certificate of the same shall be required for the purpose of changing any existing use; as well as for maintaining, reviewing, changing, or extending any nonconforming use. The aforementioned Certificate shall be applied for coincidentally with the application for a Zoning Permit and shall be issued within ten working days after the erection or alterations of such building or part shall have been completed in conformity with the provisions of this chapter. A record of all such certificates shall be kept on file and copies shall be furnished, upon request, to any person having a propriety or tenancy interest in the buildings or land.

(Ord. —, passed 6-10-91) Penalty, see § 153.999

§ 153.163 RIGHT OF APPEAL.

If the Zoning Permit and/or Occupancy/Compliance Certificates are denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment.

(Ord. —, passed 6-10-91)

§ 153.164 TEMPORARY OCCUPANCY PERMIT FOR CLASS B AND C MANUFACTURED HOMES.

The owners of Class B and Class C manufactured homes may request a temporary occupancy permit to allow them to occupy such residences for a period of 60 days. During this period of time, the required uniform foundation enclosure of the unit is to be installed. All other required State Building Codes must be adhered to prior to the request for the temporary occupancy permit. Failure to comply with the uniform foundation enclosure requirement of this chapter within the specified time frame will result in the withdrawal of the temporary occupancy permit and the appropriate penalty as defined in § 153.999. (Ord. passed 6-10-91)

§ 153.165 AMENDMENTS.

(A) The Broadway Board of Commissioners may at any time, amend, supplement, change, modify, or repeal the boundaries or regulations herein, or subsequently amended. Proposed changes or amendments may be initiated by the Town Board, Planning Board, Board of Adjustment, or by one or more owners, optionees, or lessees of property within the area proposed to be changed or affected.

(B) Petitions to amend this chapter shall be presented to the secretary of the Planning Board for review and recommendation by said Board at least 20 working days prior to its hearing by the Planning Board. The petition shall state the nature of the proposed amendment, a legal description of the property involved and the names of the property owners. Each petition, unless initiated by the Broadway Board of Commissioners, Board of Adjustment, or the Planning Board, shall be accompanied by a fee in accordance with the fee schedule adopted by the Town Board.

(C) The Planning Board shall have 45 days within which to submit its recommendation. Failure of the Board to submit its recommendation within this time period shall constitute a favorable recommendation. The Planning Board's report shall be submitted in writing to the Town Clerk and to the petitioners.

(D) A public hearing shall be held by the Board of Commissioners before adoption of any proposed amendment of this chapter. A notice of such public hearing shall be published once a week for two consecutive weeks in a newspaper of general circulation in Broadway. Said notice shall be published the first time not less than ten days and not more than 25 days prior to the date established for such public hearing.

(E) A simple majority vote of the Board of Commissioners shall be the required minimum to amend this chapter when recommendation from the Planning Board is favorable. A four-fifths majority vote by the Board of Commissioners shall be required to amend this chapter when the Planning Board recommends against such amendment.

(F) In cases of a protest against any proposed amendments, signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereof extending 100 feet from the street frontage of such opposite lots, such amendment shall not become effective except by favorable vote of three-fourths of all members of the Board of Commissioners.

(G) When a petition for amendment is denied by the Board of Commissioners, a period of 12 months must elapse before another petition for the same change previously involved may be submitted.

(H) Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts. The person or persons mailing such notices shall certify to the Town Board that fact, and such certificate shall be deemed conclusive in the absence of fraud. This provision shall apply only when tax maps are available for the area to be zoned.

(Ord. passed 6-10-91; Am. Ord. 98-2, passed 6-8-98)

Editor's note:

The buffer and screening provisions adopted by reference in § 153.165(I), originally intended as zoning regulations, were inadvertently placed in Chapter 152 during codification. The town has therefore chosen to adopt the provisions by reference, temporarily, as a cost-saving measure.

§ 153.170 PURPOSE OF BUFFER YARDS.

Buffers shall be required to separate proposed development from adjacent major streets an different adjacent land uses or zoning determinations in order to minimize potential nuisance such as the transmission of noise, dust, odor, litter, and glare of lights; to reduce the visue impact of the unsightly aspects of adjacent development; to provide for the separation of spaces and to establish a sense of privacy.

(Ord. 98-2, passed 6-8-98)

§ 153.171 BUFFERS REQUIRED.

(A) A buffer is a strip of land together with the screening required hereon. Except as otherwise specifically provided in this subchapter, the type of buffer required between proposed development and adjacent streets, land uses or zoning designations shall be as specifie in Section 153.175, schedule of required buffers.

(B) Width and screening specifications for each buffer type shall be detailed and illustrate in the Appendix to this chapter. Screening required within buffers is intended to provide separation of spaces without necessarily eliminating visual contact between the spaces, and may consist of existing vegetation, planted vegetation, a landscaped earth berm, a decorative wall, wood fence, or a combination of the above. Any of the options specified in the Appendix for the required buffer type shall satisfy the buffer requirements of this section.

(Ord. 98-2, passed 6-8-98)

§ 153.172 LOCATION OF BUFFERS.

Required buffers shall be located along the interior or street lot lines nearest the adjacent streets, land uses, or zoning designations except where such lot lines are intersected by crossing accessways or utility easements, or by a joint parking area. Buffers shall not be located on any portion of an existing or proposed street right-of-way or easement.

(Ord. 98-2, passed 6-8-98)

§ 153.173 USE OF BUFFER.

Provided that the required buffer width and screening is maintained, a buffer may contain utilities, pedestrian and bicycle paths, and other minor or passive uses compatible with the general separation of land uses.

(Ord. 98-2, passed 6-8-98)

§ 153.174 RESPONSIBILITY FOR BUFFER.

(A) Where vacant zoning lots are adjacent, the first zoning lot to be developed shall provide the buffer required next to the adjacent land. At the time it is developed, the second zoning lot shall provide all additional screening and/or land necessary to provide the total buffer required between the developed land uses.

(B) Where a buffer meeting the requirements of this section is provided on an adjacent zoning lot, the screening and/or land within that buffer may be counted as contributing to the total buffer required between the adjacent existing land use and the proposed land use.

(Ord. 98-2, passed 6-8-98)

§ 153.175 SCHEDULE FOR REQUIRED BUFFERS

The specifications for each buffer type A, B, and C on the following table are illustrated in the Appendix to this Chapter. The established classifications are as follows:

Class I: Single-family dwellings, two family dwellings, recreational uses of less than five (5) acres, *non-commercial animal confinement facilities, plant nurseries and greenhouses.

Class II: Architecturally integrated subdivisions under single ownership, schools, public services, dormitories and residence halls, parks of five (5) acres or more, recreational facilities, fraternal lodges, churches, and community centers.

Class III: Multi-family complexes, cemeteries, planned residential developments, mobile home parks, meeting halls, nursing homes, hospitals, and child care centers.

Class IV: Individual retail stores, shopping centers, office parks, restaurants, vehicle sales and services, mobile homes sales, bus stations, railway stations, convenience stores, car wash, warehousing, movie theaters, service stations.

Class V: Light and heavy manufacturing, animal hospitals, laboratories, bulk plants, processing plants, and industrial parks.

TABLE OF BUFFER REQUIREMENTS					
<i>Land Use Class</i>	<i>Class I</i>	<i>Class II</i>	<i>Class III</i>	<i>Class IV</i>	<i>Class V</i>
Class I	NA*	NA*	NA*	NA*	NA*
Class II	A	A	A	C	C
Class III	B	A	A	B	C
Class IV	C	C	B	A	C
Class V	C	C	C	C	A

* Type A buffer is required for non-commercial animal confinement facilities.
(Ord. 98-2, passed 6-8-98)

§ 153.176 OTHER REQUIRED SCREENING.

In addition to the bufferyard screening required in 153.175, and screening required for off-street parking and for refuse storage facilities, all business, service, repair, processing, storage, or merchandise display conducted outside of an enclosed building shall be screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two years of planting, or combination of the above
(Ord. 98-2, passed 6-8-98)

§ 153.177 ALTERNATIVE BUFFERS AND SCREENING.

In lieu of compliance with the above bufferyard and screening requirements, a developer may submit to the Board of Adjustment for its approval a detailed plan and specifications for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.

(Ord. 98-2, passed 6-8-98)

§ 153.178 RECOMMENDED PLANT MATERIALS; SCREENING VEGETATION.

(A) A three-foot screen shall be provided between parking areas and adjacent streets, and a six-foot screen shall be provided between parking areas and adjacent residentially-zoned properties. This screening may consist of a tight evergreen hedge, which will reach the required height within two years of planting. It is also required that buffers between significantly different land uses include an evergreen hedge which will reach a height of six feet within two years of planting.

(B) All plant material required by this section shall be of one or more species listed below. However, the Town Planner may approve other plant material not listed herein if it is found that such material will fulfill the requirements of this section.

Canopy Trees

Red Maple	Laurel Oak
Silver Maple	Live Oak
Sugar Maple	Pin Oak
Green Ash	White Oak
White Ash	Willow Oak
Southern Magnolia	Japanese Zelkova
Sycamore	Village Green Zelkova
Sawtooth Oak	Scarlet Oak

Understory Trees

Eastern Redbud	Japanese Maple
Flowering Dogwood	Wax Myrtle
Golden-Rain Tree	Crape Myrtle
Kwanzan Cherry	Leyland Cypress
Yoshino Cherry	Foster Holly
Bradford Pear	Yaupon Holly
Chinese Elm	American Holly
Washington Hawthorne	American Hornbeam

Shrubs

Glossy Abelia	Indian Hawthorne
Wintergreen Barberry	Needlepoint Holly
Japanese Privet	Greenleaf American Holly
Burford Holly	Rose of Sharon
Forsythia	Azaleas
Thorny Elaeagnus	Boxwoods
Junipers	Rhododendrom

(Ord. 98-2, passed 6-8-98)

§ 153.179 PLANTING.

Minimum planting sizes are outlined below. However, larger sizes may be required for a particular species to reach the necessary height within the time period stipulated in this subchapter.

(A) *Deciduous trees*. Minimum caliper of 1 ½ - 2 ½ inches (diameter at breast height - DBH).

(B) *Evergreen trees*. Minimum caliper 1 ½ inches (DBH).

(C) *Shrubs*. Minimum height of 15-18 inches of 18-24 inches (for upright shrubs).

(D) *Groundcover*. Minimum of 1 ½ inch pots.

(Ord. 98-2, passed 6-8-98)

153.180 EXISTING VEGETATION.

(A) Evaluation of possible trees to be retained. Prior to construction, a professional should be consulted to determine which trees are worth saving. If specimen trees are found and are to be retained, it is best not to disturb the area within the dripline of these trees.

(B) Protection of trees to be retained.

(1) *Traffic and storage*. Vehicular traffic, storage of heavy equipment, and stockpiling of any materials should not be permitted within the drip lines of these trees.

(2) *Toxic materials*. No toxic materials may be stored within 100 feet of the drip lines of trees to be retained, unless in a storage container approved by the Building Inspector.

(3) *Protective devices*. Protective devices should be installed prior to any grading, constructions work, or traffic taking place near trees to be retained, and should be maintained until all work in the vicinity has been completed, as certified by the Building Inspector. Such devices should effectively protect the roots, trunk, and top of trees to be retained. The following list of

protective devices is illustrative only and is not intended to exclude the use of other devices that ensure adequate protection, as determined by the Building Inspector.

(a) Snow fence – 2 x 2 inch posts with bat board placed at the drip line.

(b) Cord fence – consisting of 2-inch square posts set secure in the ground, spaced no more than three feet apart, protruding at least four feet above the ground, and connected by cord at least 2-inches thick, with strips of surveyor's flagging tied to cord at intervals no greater than three feet.

(C) *Grading*. Grading should not take place inside the drip line of trees to be retained if at all possible. Any ground disturbing activities within the drip lines significantly increases the chance of mortality of the trees. Where grading within a tree drip line cannot be avoided and the trees are determined to be worthy of saving, a professional should be consulted to determine appropriate protection for the tree. The following suggestions may help to maintain the life of trees. Consultation with a professional is advised in order to choose appropriate measures.

(1) Limit cuts and fills to $\frac{1}{4}$ to $\frac{1}{2}$ of the area within the drip line of the tree.

(2) Avoid cuts and fills around the entire circumference of a tree.

(3) If possible, have a professional root prune a tree months prior to any cuts within the drip line.

(4) Avoid cutting large roots.

(5) Have a professional prune tree limbs in an amount which reflects the area of the roots severed, but in no case should pruning exceed 30% of the limb area. Fertilize and water the undisturbed side of the tree under the supervision of a professional.

(6) Where cuts have left roots exposed to the air, cut roots clean and paint promptly with a tree paint.

(7) Avoid filling within the drip line of a tree without some method for allowing the tree roots to breathe and to allow water to reach the roots.

(D) *Trenching*. Trenching close to individual valuable ornamental shade trees or trees in woodland tracks in development is often necessary to install utility lines, construct buildings, driveways, walkways, and curb and gutter. When trenching is necessary, backfill with good native top soil as soon as possible, preferably as soon as the pipe is laid. Water well, but do not compact the soil. Check with a professional for appropriate fertilization. When trenching is necessary, try to stay to the outer edge of the drip line if at all possible.

(E) *Continuing maintenance.* In order for a tree to survive it is important to provide continuing maintenance and to assure an adequate water supply. A professional should be consulted to determine an appropriate fertilization schedule and other maintenance requirements for particular species, soil conditions, and the like. If construction must take place within the drip line of a tree, a combination of porous and nonporous surface may help assure an adequate water supply. For instance, in constructing parking area leave 1/4 to 1/2 of the area within the drip line of the tree unpaved or paving this area with gravel, turf stone, or paver stones may provide sufficient water. A tree watering system may also be of use.

(Ord. 98-2, passed 6-8-98)

§ 153.183 MAINTENANCE OF LANDSCAPING.

All landscaping and screening providing required buffering and screening shall be maintained so as to continue their effectiveness.

(Ord. 98-2, passed 6-8-98)

§ 153.999 PENALTY.

Unless otherwise specifically provided, if any person shall violate any provision of this title, except any provision regulating the operation or parking of vehicles, he or she shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$50 or imprisoned for not more than 30 days. Each day that any of the provisions of this title are violated shall constitute a separate offense.

(G.S. § 14-4(a))

Statutory reference:

For provisions concerning enforcement of ordinances, see G.S. § 160A-175

(Ord. passed 6-10-91)

ZONING CODE - APPENDICES

Appendix

A. BUFFER TYPES; SCREENING

APPENDIX A: BUFFER TYPES; SCREENING

[Artwork]

[Artwork]

