
Chapter 32

ZONING*

ARTICLE I.

IN GENERAL

Sec. 32-1. Purpose.

This chapter is hereby adopted in order to:

- (1) Secure safety from fire, panic, and other dangers;
- (2) Promote health and the general welfare;
- (3) Provide adequate light and air;
- (4) Prevent the overcrowding of land;
- (5) Avoid undue concentration of population;
- (6) Facilitate the adequate provisions of public requirements;
- (7) Conserve the value of buildings and encourage the most appropriate use of land throughout the village; and
- (8) Protect the area's ecology through full cooperation with county, state and local authorities.

(Ord. No. 29, § 1.1, 8-17-1991)

Sec. 32-2. Authority.

This chapter is s adopted pursuant to the authority vested in the village by G.S. 160A-360 ~~et seq.~~ [D-201](#) and limited by the charter incorporating the village.

(Ord. No. 29, § 1.2, 8-17-1991)

Sec. 32-3. Jurisdiction.

The provisions of this chapter shall, to the extent permitted by law, apply within the corporate limits of the village.

(Ord. No. 29, § 1.3, 8-17-1991)

Sec. 32-4. Interpretation and conflict.

In applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, prosperity and general welfare. It is not intended by this chapter to interfere with, change or annul any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easement, covenants or agreements, the provisions of this chapter shall govern.

(Ord. No. 29, § 1.4, 8-17-1991)

Sec. 32-5. Zoning affects all land and every building and use.

Upon and after adoption of this chapter, no building or land shall be used and no building or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations specified herein for the district in which it is located.

(Ord. No. 29, § 7.1, 8-17-1991)

Sec. 32-6. Required yards not to be used by building.

The minimum yards or other open spaces required by this chapter for each and every lot shall not be encroached upon or considered as meeting the yard and open space requirements of any other lot.

(Ord. No. 29, § 7.2, 8-17-1991)

Sec. 32-7. Relationship of building to lot.

Every building 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 the lot except in the case of a designed complex of professional, residential, or commercial buildings in an appropriate zoning district. Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.

(Ord. No. 29, § 7.3, 8-17-1991)

Sec. 32-8. Street access.

No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a business district or in a planned development in a residential district, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

(Ord. No. 29, § 7.4, 8-17-1991)

Sec. 32-9. Reduction of lot and yard areas prohibited.

No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth in this chapter. Yards or lots created after the effective date of this chapter shall meet at least these minimum requirements.

(Ord. No. 29, § 7.5, 8-17-1991)

Sec. 32-10. Business uses of manufactured offices and trailers.

No manufactured office or trailer shall be used in any manner for business, commercial, or residential purposes, except ~~in~~

[inconformity](#)

~~conformity~~ with the provisions of applicable law, this article and any Permitted and **Conditional** Special Use Table. A construction trailer may be used during the period of construction of improvements of property upon which the construction trailer is located. A manufactured office or trailer may be used on a temporary basis during an emergency in a commercial zoning district for a specific time period granted by the zoning official and only if the use operated within the structure is a permitted use in that zoning district. All commercial trailers must be parked overnight in commercial zones and screened from view from public right-of-ways. Pursuant to section 32-12, a properly permitted food service trailer may be used on a temporary basis in conjunction with a special event.

(Ord. No. 29, § 7.6, 8-17-1991; Ord. No. 2002-006, § 1, 4-20-2002; Ord. No. ZO-03-04, 6-18-2004; Ord. No. 2015-0402, 417-2015)

Sec. 32-11. Definitions.

Except as specifically defined in this section, all terms contained in this chapter shall have their customary definitions. Terms used in this chapter shall be defined as follows:

Abutting means having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street or alley.

Access means a way of approaching or entering a property from a public street or right-of-way. Access also includes ingress, the right to enter, and egress, the right to leave.

Accessory building or use means a building or use not including signs, which is:

- (1) Conducted or located on the same lot as the principal building or use served;
- (2) Clearly incidental to, subordinate in area and purpose to, and serves the principal use; and
- (3) Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal use.

AEC means area of environmental concern as designated and regulated by the coastal resource commission.

Alley means a public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

Architectural review board (ARB) means the architectural review board or committee established by and operating under the auspices of Bald Head Association, a state nonprofit corporation, which is referred to in this chapter as the ARB.

Baffled light means any artificial light which is attached to a building and is shielded from horizontal view.

Bald Head Island Design Guidelines means a publication to assist property owners in planning their buildings as well as their site development plan and landscape plan.

~~*Board of adjustment* means a quasijudicial administrative body that operates on a level between the enforcement officers and the courts. The board shall hear and decide appeals from and review any order, requirement, decision or determination made by a zoning official charged with the enforcement of any ordinance adopted as part of this chapter. The village council shall appoint all members to the board of adjustment.~~

Building means any structure built for support, shelter or enclosure of persons, animals or property of any kind ~~which has enclosing walls for 50 percent or more of its perimeter~~. The term "building" shall be construed as if followed by the words "or parts thereof" including porches, decks, carports, garages, sheds, roof extensions, overhangs, and any other projections.

Building, height of, means the vertical distance from the lowest natural point on the ground beneath a building and attached structures to the highest point of the roof.

Building permit means a permit issued by the village to allow construction according to the approved building plans submitted by the contractor or owner of the described property as required by G.S. 160A-417 [D-1110](#).

Building plans means the detailed architectural drawings and specifications of a building proposed to be erected on a lot which shall show as a minimum the dimensions, elevations,

interior layout, type of construction and exterior appearance, design and finish of the building. The building plans shall be accompanied by a topographic survey of the lot showing the elevation contours not more than every 20 feet as measured from front to rear and side to side lines of the lot, see section 32-44(c) for a description of other material to accompany building plans in applying for a building permit.

Building site means an area of disturbed land and vegetation required for placement of a structure, its access ways, and utilities, including, but not limited to, areas disturbed for parking lots, power lines, driveways, septic tank nitrification fields and hiking trails.

Certificate of occupancy/compliance means official certification that the structure may be used or occupied following connection with permanent electrical power (G.S. 160A-423D-[1116](#)).

Clinic, medical services means a facility operated by one or more physicians, or other licensed practitioners of the healing arts, but not exceeding four physicians or other licensed practitioners, for examination and treatment of persons solely on an outpatient basis.

Club or lodge (private nonprofit, civil, fraternal) means a nonprofit organization of persons, who are bona fide members

paying dues, which owns, hires, or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

Commercial filming activity means the process of recording any photographic image, still or moving, by any technology available therefor when the image is recorded for hire or redistribution for monetary gain when such activity shall involve the use of equipment of any type which may not be physically transported by hand without the use of mechanical devices. Commercial filming activity shall further include any activity ancillary thereto or in support thereof, including but not limited to transportation, use or storage of any equipment, vehicles or other property used in connection therewith.

Community boat ramp means a launching ramp owned by the property owners' association for use by property owners and their guests.

Community boating facility means a private, nonprofit boating facility including a dock, pier and/or launching ramp on property having water frontage; the use of which is intended to serve more than one residential lot. The right to use such facility must be conferred by an easement appurtenant to the residential unit or lot it is intended to serve or must be controlled by a property owner's association having jurisdiction over the common elements in a residential project in which the lot or unit is a part. No commercial activities of any kind shall be allowed within the confines of the facility.

Condominium means a parcel of real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of these portions where undivided interest in the common elements are vested in the unit owners.

Construction trailer means a structure, not to exceed 16 feet in length, on the job for purpose of storing materials and tools and which will be removed immediately upon completion of construction.

Dwelling, duplex, means a building on a single lot or parcel containing two dwelling units, and where the building is designed to be or is occupied by two families living independently from each other.

Dwelling, multifamily, means a building containing three or more dwelling units, and where the building is designed to be or is occupied by three or more families living independently from each other.

Dwelling, single-family-attached, means two or more single-family dwelling units, each sharing at least one party wall along a common property line with each other and/or with another single-family dwelling unit, and where the end units meet the applicable minimum side yard setback requirements on their unattached sides.

Dwelling, single-family-detached, means a building containing one dwelling unit only, where the building is designed to be occupied by one family and having no roof, wall or floor in common with another dwelling unit.

Dwelling unit **means an enclosure designed for and used or held ready for use as a residence.** means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, zero lot line, means a dwelling located on a lot in such a manner that one side of the structure abuts a pre-designated side lot line, and where the structure does not share a party wall with an adjacent structure along the same lot line.

Emergency repairs means any repairs necessary to protect the structure from damage from the weather elements or which are necessary to protect occupants or other persons from imminent injury. Such repairs include any repairs to allow the existing electrical heating, cooling, or sanitary equipment to operate properly.

Family means one or more persons related by blood, marriage or adoption living together as a single housekeeping unit and having a recognized head of household. For the purposes of this chapter such persons may include gratuitous guests and domestic servants employed on the same premises. Family also may be two to five unrelated persons sharing a common household.

Filmmaker means the person, firm, corporation or other entity conducting any

commercial filming activity. *Floor area, gross*, means the total square footage on all floors within the building walls.

Forest canopy means the light intercepting layer formed by all of the tree tops and ultimate leaf bearing branches in a forest: the uppermost layer of vegetation in a forest. In the Bald Head Island and Middle Island forest, the forest canopy may be kept to near constant height by the pruning effect of salt mist nearer the ocean, or it may become irregular in height where salt impact is less.

Forest subcanopy means a light intercepting understory layer formed by shade tolerant saplings, shrubs and small trees beneath the canopy of a forest. The Bald Head Island subcanopy species include dogwood, holly, cherry, laurel, waxmyrtle and beautyberry.

Freestanding baffled lighting means artificial lighting, attached to a flat surface such as a fence, wall or tree, which is directed downward and shielded from horizontal view.

Garage, private, means a building used as an accessory to or a part of the mail building permitted in any residential district, and providing for the storage of vehicles.

Groundwater recharge area means a catchment basin or watershed underlain by layers of alternating permeable and impermeable strata such that excess rainfall not lost to evaporation or runoff is retained and stored in subterranean porous layers of soil. Essentially the entire Bald Head Island and Middle Island forests act as groundwater recharge areas since porous sandy soils permit little runoff of excess precipitation. For the purposes of this chapter components of these systems

include ponds, wetland swells, bay forest, dunes and marsh.

Handicapped person means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)B.

Home occupation means any occupation or profession carried on within a dwelling by one or more occupants thereof, providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than 25 percent of the total floor area is used for such purposes, that there is no outside or window display, that no mechanical or electrical equipment is installed or used other than is normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment and providing that no person not a resident of the dwelling nor a family member is employed in connection with the home occupation. To be "employed in connection with the home occupation" means to be a natural person engaged to perform any service on the premises of a home occupation on a full-time, part-time, contract basis, or independent basis, whether or not the person performing the service is designated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or compensation by the operator of said business. "Employed" does not include circumstances where a person is exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employed" include the circumstances where a person is exclusively on the premises as a patron or customer.

Hotel, motel or inn means a building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the accommodation of such guests; and may have one more dining rooms or restaurants, where meals are served, shops, and attendant sports and recreational facility. The term hotel, motel or inn includes bed and breakfast establishments.

Impervious coverage means the area of land on a lot, which is covered by surfaces including roof area in such a manner that water cannot drain through such surfaces. The term "impervious coverage" does not include open deck, walkways, and driveways of wood in which the boards are spaced one-fourth inch apart.

Inoperative vehicle means any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion.

Junk means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked dismantled or wrecked vehicle, or parts thereof, iron steel, and other old or scrap ferrous or nonferrous material. (G.S. 136-143).

Land area means the total square footage within a property boundary.

Landscape permit means a permit to allow excavation, grading, filling or removing of vegetative covers according to section 32-44.

Loading space, off-street, means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot means a parcel of land recorded as a lot occupied or intended for occupancy by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as required by this chapter, and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected or are to be erected.

Lot, corner, means a lot at the intersection of two streets.

Lot coverage means the area of a lot that is covered by impervious or partially impervious covers including buildings, pavement, and recreation facilities but not including decking.

Lot, interior, means a lot other than a corner lot.

Lot line means the line bounding a lot.

Lot, through, means an interior lot having frontage on two streets.

Lot width means the straight-line distance between the points where the building setback line intersects the two side lot lines.

Low profile luminaries means any light fixture set on a base which raises the source of light no higher than 48 inches off the ground and designed in such a way that light is directed downward from a hooded light source.

Manufactured home means a dwelling unit that:

- (1) Is not constructed in accordance with the standards set forth in the state building code; and
- (2) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis bearing HUD inspection stickers. (G.S. 143-143.9(6)).

Marina, commercial, means any water area with a structure including but not limited to dock, basin, floating dock, etc. which is utilized for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten boats.

Maritime forest means woodlands that have developed under the influence of salt spray on barrier islands and estuarine shorelines. The woodlands develop as an end result of primary plant succession on coastal barrier islands. Development generally takes place on stabilized dune systems located on the sound side of islands whose width, topography, and orientation provide sufficient protection from storm exposure. These forests contain a unique assemblage of species adapted to survive and reproduce under the harsh conditions associated with a coastal barrier system such as salt spray, wind shear, sandy soils with few nutrients and low water availability. Maritime forests are located on the most protected and usually the most attractive portions of the barrier islands. In general on Bald Head Island these forests are sheltered from the south by the spinal dune ridge and salt spray sheer zones on the east and west. Middle Island's maritime forest is sheltered by salt spray sheer zones on all sides.

Maritime forest protection overlay district means the area within the corporate limits of the village which contains maritime forests.

Modular home means a dwelling unit constructed in accordance with the standards set forth in the state building code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Multiple site and multifamily site mean any proposed use of land which shall entail development of a given site such that its use or intended use contemplates one or more dwellings or one or more lots.

Nonconforming lot means a lot existing at the effective date of this chapter or any amendment to it (and not created for the purpose of evading restrictions of this chapter) that cannot meet the minimum dimensional requirements of the district in which the lot is located.

Nonconforming use means the use of a structure or land which does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments which may be incorporated into this chapter.

Open space means the land area which is not part of the building pad or the parking space.

Ordinance means this chapter, text and map including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date or any amendment to it.

Parking lot means an area or plot of land used for the storage or parking of vehicles.

Parking space means a storage space of not less than 72 square feet for one vehicle (six feet by 12 feet).

Planned unit development means a development of a lot or parcel of land which includes mixed use of residential, commercial, necessary utility facilities and recreational use in a unified plan of development.

Planning board means the public agency empowered to prepare, review, and maintain a comprehensive plan ~~and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan;~~ to facilitate and coordinate citizen engagement in the planning process; to develop and recommend policies and ordinances related to development; to make recommendations to council with respect to all zoning text and map amendments, and to perform any other related duties that the village council may direct. In addition to these powers, the planning board shall convene when necessary as a quasi-judicial decision-making board to hear and decide special use permits, variances, and appeals of administrative decisions by a zoning official charged with the enforcement of any ordinance adopted as part of this chapter. The village council shall appoint all members to the planning board.

Planting plan means a plan showing site plan elements as well as proposed location, size, quantity, and variety of new plants.

Plat means a map showing the location, boundaries, and ownership of individual properties.

Pole light means any light fixture set on a base or pole where the point of light is higher than 48 inches off the ground.

Premanufactured structure means a structure used for other than dwelling purposes, which is constructed or manufactured at a location other than the lot on which it is located.

Previous coverage means the portion of the lot not defined as lot coverage.

Principal building means a building in which is conducted the principal use of the lot on which the building is situated, as related to the requirements of this chapter. In no way shall a camper or trailer be considered a principal building.

Rental unit means a building or portion thereof designed, arranged or used for permanent living quarters offered for rent on an annual or seasonal basis by the owner or a rental agency. This use as a rental unit will not be considered commercial for the purpose of this chapter.

Residential private pier means a dock, pier, launching ramp supporting boating activity extending from one or more residential lots into water adjacent thereto; the use of which shall be limited to members of the families of the lot owners or their tenants and/or their invited guests.

Setback means the required distance between every structure and the lot lines of the lot on which it is located.

Sewage disposal system means an approved sewage disposal system serving a building including private, municipal and sanitary district sewage systems located and constructed according to specifications of the county health department in consultation with the division of health services and/or the division of environmental management of the department of environment, health, and natural resources.

Single-family dwelling means a structure containing one dwelling unit designed for and used or held ready for use to house a single family.

Site development plan means a scaled drawing of a building site containing all of the information required under section 32-128 of this chapter to be submitted and inspected by the zoning official prior to the issuance of a building permit.

Site plan means a detailed plan showing plantings, driveways, parking, lighting, and site grading of proposed development.

Soil erosion and sedimentation control plan means a plan designed to ensure the stabilization and subsequent revegetation of all areas that have been disturbed to the extent that bare land has become exposed.

Special event means any show, concert, festival, bazaar, or similar activity, which does not occur more than once in a calendar quarter. Such activities may include, but are not limited to, activities associated with a recognized state or federal holidays such as the Fourth of July, Labor Day, and Memorial Day.

Start of construction means setting pilings or pouring a foundation for a structure.

Street means a thoroughfare which affords the principal means of access to abutting property.

Street line means the line between the street right-of-way and abutting property.

Street, private, means any road or street which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public.

Structural alterations means any change in the supporting members of a building, such as bearing walls, columns, beams or girders except for repair or replacement.

Structure means anything constructed or erected, the use of which requires location in or on the land or attachment to something having a permanent location in or on the land.

Townhouse means a single-family dwelling unit constructed in a row of attached units separated by property lines and with open spaces on at least two sides.

Trailer means any vehicle or structure originally designed to transport something or intended for human occupancy for short periods of time. Trailers shall include, without limitation, the following:

Camping trailer means a folding structure manufactured of metal, wood, canvas, plastic, or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation, or vacation use.

Construction trailer means a structure, not to exceed a total length of 20 feet, on the job for purpose of storing materials and tools and which will be removed immediately upon completion of construction.

Food Service trailer means any trailer used to prepare or deliver food for commercial purposes. Smokers or cookers designed to be pulled by any vehicle, and push carts selling food for commercial purposes shall be included in this definition.

Passenger trailer means any trailer designed to be pulled by any vehicle for the purpose of transporting pedestrians. This include, without limitation, island tours services and trams.

Recreational vehicle means a self-propelled vehicle or portable structure mounted on such a vehicle designed as a temporary dwelling for travel, recreation, and vacation.

Tow trailer means a structure designed to be hauled by another vehicle and to transport vehicles, boats, water craft, landscaping materials, or freight. A utility trailer up to 60 inches also shall be included in the definition of tow trailer.

Travel trailer means a structure that is:

(1) Intended to be transported over the streets and highways either as a motor vehicle or attached to or hauled by a motor vehicle; and

(2) Designed for temporary use as sleeping quarters, but that does not satisfy one or more of the definitional criteria of a manufactured home.

Tree means any woody plant with at least one trunk with a caliper (diameter) of three inches or more than four feet above the ground.

Tree removal means cutting down a tree or removal of a tree or any act which causes a tree to die within a period of two years, including but not limited to, damage inflicted upon the tree or its root system by machinery, storage of materials and soil compaction; changing the natural grade above the root system or around the trunk; excessive pruning; paving with concrete, asphalt, or other impervious material within such proximity as to be harmful to the area.

Use, *conditional special*, means a use which is permitted ~~under certain conditions proposed by the applicant or required by village council~~ in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards to address site specific health, safety, compatibility or other public concerns in ~~at the~~ district ~~only after review by the planning board and~~ Such use must receive final approval by the board of adjustment. planning board after a public evidentiary hearing. The term includes uses previously referred to as conditional uses under these ordinances.

Use, *permitted*, means a use which is permitted as a right in a district for which a zoning permit may be issued by the zoning enforcement officer.

Utility facilities means equipment needed to store water and treat water and sewage and other facilities to meet the need

of Bald Head Island, including television and telephone cables, electrical cables, transformers and other distribution equipment.

Utility services means all lines, lift station, pumping station, piping, etc. necessary to provide water and sewer service; including water wells and septic mound systems and all cable television, electrical and telephone lines.

Variance means a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformity in the zoning district or uses in an adjoining zoning district.

Veterinary clinic means any facility maintained and operated by a licensed veterinarian for the diagnosis, treatment or other care of the ailments of dogs, cats, or other comparable domesticated animals. These facilities may include accessory boarding quarters for animals and offer related services such as obedience classes, training, grooming and/or behavioral counseling.

Water supply system means an approved water supply system including county, municipal and sanitary district water systems designated to serve particular subdivisions at full development and constructed to specifications of the county health office in consultation with the division of health services and/or the division of environmental management or the department of environment, health, and natural resources.

Wetlands means any area defined by or determined by the U.S. Army Corps of Engineers or other appropriate governmental authority, to be and constitute Section 404, Wetlands, under the applicable federal or state statutes.

Yard means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided therein.

Yard, front, means a yard across the full width of the lot, extending from the front line of the building to the front line of the lot, including the area of steps, eaves, and covered porches, but not including the areas of uncovered porches.

Yard, rear, means a yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.

Yard, side, means a yard between the building and the side line of the lot extending through from the front yard to the rear yard or, where no rear yard is required, to the rear line of the lot.

Zero lot line means a lot line which has no requirement that any structure constructed adjacent thereof be located any minimum distance from that line.

Zoning means a police power measure, enacted primarily by units of local government in which the community is divided into districts or zones within which permitted and ~~conditional~~special uses are established as are regulations governing building bulk placement and other development standards. Requirements vary from district to district but they must be uniform within districts. The zoning ordinance consists of two parts: a text and a map.

Zoning map means an official map kept at village hall showing the boundary lines of the various zoning districts.

Zoning official means the building inspector as the person charged with enforcement of this chapter as shall from time to time be designated by the village council.

Zoning permit means the permit issued by the zoning official authorizing any change in the use of the building.

(Ord. No. 29, § 2.1, 8-17-1991; Ord. of 3-18-2000; Ord. No. 2000-21, 9-16-2000; Ord. No. ZO-02-04, 6-18-2004; Ord. No. 2006-1101, 11-17-2006; Ord. No. 2009-0503, 5-15-2009; Ord. No. 2012-1001, 10-19-2012; Ord. No. 2015-0402, 4-17-2015; Ord. No. 2016-10-01, 10-21-2016)

Cross Reference—Definitions generally, § 1-2.

Sec. 32-12. Food service trailer temporary use permit for special events.

(a) Food service trailers may be used on a temporary basis in conjunction with special events provided that a food service trailer temporary use permit has been obtained from the building inspector in accordance with the provisions of this section. This article and any Permitted and ~~Conditional~~ Special Use Table notwithstanding, use of food service trailer pursuant to this section shall be limited to commercially zoned areas and the premises of a property owners association, Bald Head Island Club, Shoals Club, Village or non-profit organization under Internal Revenue Code § 501 or equivalent. Food service trailers shall not be used on private residential property.

(b) An application for a food service trailer temporary use permit shall be submitted no less than one week prior to the date of the special event and shall contain or have attached to it the following information:

- (1) The tax parcel number of the property on which the food service trailer is to be located.
- (2) Names, addresses, and telephone numbers of the applicant; owner of the property on which the food service trailer is to be located; and the owner of the food service trailer.
- (3) A scaled drawing, plat map, or survey of the property involved, on which is accurately shown the proposed

placement and dimensions of the food service trailer in relation to the property and any structures or fixtures located thereon.

(4) The special event for which the temporary use is requested and the time period, not to exceed three days, for which the applicant intends to use the food service trailer, along with a listing of the hours each day during which food will be served from the trailer.

(5) Other information as the building inspector may require to determine full compliance with this and other applicable codes.

(c) A fee in an amount currently in effect by action of the village council will be paid at the time of application. Upon the filing of an application for a temporary food service trailer permit, the building inspector shall examine the plans and specifications, and as deemed necessary, may inspect the premises upon which the food service trailer is proposed to be located. If the proposed food service trailer is in compliance with all the requirements of this Article and other applicable law, a temporary use food service permit shall be issued. Any temporary use permit issued in accordance with this article shall be for no more than three days.

(Ord. No. 2015-0402, 4-17-2015)

Secs. 32-13--32-40. Reserved.

ARTICLE II.

ADMINISTRATION*

***Cross Reference**—Administration, ch. 2. permits issued or denied with notations of all special conditions or modifications involved.

DIVISION 1.

GENERALLY

Sec. 32-41. Zoning enforcement officer.

(a) The zoning official is hereby authorized and it shall be his duty to enforce the provisions of this chapter. This official shall have the right to enter upon the premises at any reasonable time necessary to carry out his duties. It is the intention of this chapter that all questions arising in connection with enforcement and interpretations of matters governed by this chapter shall be presented first to the zoning official. Appeal from his decision may be made to the planning board ~~of adjustment~~. The building inspector shall be and hereby is appointed as the zoning official.

(b) In administering the provisions of this chapter, the zoning official shall:

(1) Make and maintain records of all applications for permits listed and requested in this chapter, and records of all

(2) File and safely keep copies of all plans submitted and the same shall form a part of the records of his office and shall be available for inspection at reasonable times by any interested party.

(3) Conduct inspections of premises and upon finding that any of the provisions of this chapter are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

(c) [Where the zoning official charged with making a final determination on enforcement and interpretations of matters governed by this chapter would have a direct, substantial, and readily identifiable financial impact from the outcome of the decision or if the applicant or other person subject to that decision is a person with whom the zoning official has a close familial, business, or other associational relationship then the zoning official shall notify the village manager who shall make such final determination.](#)

(Ord. No. 29, § 3.1, 8-17-1991)

Cross Reference—Officers and employees, § 2-61 et seq.

Sec. 32-42. Application for permit.

It shall be unlawful for the zoning official to issue a building or landscape permit for any purpose regulated by this chapter until he has inspected such plans in detail and found them in conformity

with this chapter. To this end, the zoning official shall require that every application for a building or landscape permit be accompanied by a site development plan as defined in section 32-128 of this chapter.

(Ord. No. 29, § 3.2, 8-17-1991)

Sec. 32-43. Certification of occupancy /compliance.

No new building or part thereof shall be occupied overnight and no addition or enlargement of any existing building shall be occupied and no existing building, after being altered or moved, shall be occupied and no change of use shall be made in any existing building or part thereof, until the zoning official has issued a certificate of occupancy/compliance. The zoning official may issue a temporary certificate of occupancy when he finds that actual occupancy of the building would not be dangerous, unhealthy, or unsanitary for any persons and that the building may be occupied on a specified temporary basis upon conditions which the zoning official finds would bring the building into full compliance with this chapter and other applicable village, county, and state regulations for occupancy thereof within a specified time period. In applying for and obtaining a certificate of occupancy/compliance, the following additional requirements shall be made:

- (1) The building site shall be cleaned and building debris removed.
- (2) Any damage to roads, utilities, and public facilities shall have been repaired and such repairs approved by the

development services department and/or any utility company affected.

(3) The applicant presents to the zoning official a valid septic tank or sewage treatment facility completion certificate.

(4) A foundation survey showing the location of the foundation or a final as-built survey having been signed by a licensed surveyor in the state shall be presented showing the actual location of the foundation or structure with reference to all lot lines.

(Ord. No. 29, § 3.3, 8-17-1991; Ord. No. 2009-0701, 7-17-2009)

Sec. 32-44. Landscape permits and building permits.

(a) *Issuance of landscape permit.*

(1) No lot or tract within the village may be cleared, excavated, graded or filled until the building inspector has issued a landscape permit, whether or not such activity is in connection with a proposed construction.

(2) Special consideration must be given to preserving as much natural area as possible and to preserving all plants of special concern as designated in subsection (k) of this section.

(3) The site development plan required by subsection (c) of this section prior to the issuance of a permit shall clearly define those areas where existing dunes, berm and vegetative cover shall remain undisturbed and shall include plans for restabilizing any revegetation areas disturbed. Disturbance of the natural vegetation shall only be permitted in those circumstances in which such disturbance is reasonably necessary to allow safe construction of the proposed dwelling and its appurtenant facilities, such as septic tank and driveway. Such special consideration must be given to preserving as much natural area as possible.

(4) Provided, however, that nothing in this chapter shall require issuance of a landscape permit under this article for the maintenance of roads within the village right-of-way and hand clearing of three-inch and smaller caliper trees.

(5) Cutting of any tree or trees larger than three inches in caliper at four feet above grade without first obtaining a proper landscape permit will require the offender to obtain a permit, pay the required fine, and mitigate the loss of such tree or trees. Pruning tree branches and/or limbs larger than five inches in caliper without first obtaining a proper landscaping permit will require the offender to obtain a permit, pay the required fine, and mitigate the loss of such branches and/or limbs.

(6) In the case of competing trees, the building inspector shall make the decision of which tree to remove. The removal of dead trees with a three-inch caliper or greater, shall not require a permit but shall require the approval of the building inspector prior to removal. If a decision by the building inspector is disputed, the property owner must provide sufficient evidence to show the tree is dead, represents a danger to individuals or property, or the tree is diseased and will not live.

(7) Failure to comply with the requirements of the approved site plan shall be considered a violation and shall be subject to the immediate issuance of a stop work order by the building inspector and to the other procedures and remedies of subsection (k) of this section.

(b) *Issuance of building permit.* No building or other structure shall be erected, moved, extended, or structurally altered until the building inspector has issued a permit for such work.

(c) *Application for permit; requirements.* Each application to the building inspector for a permit under subsections (a) and (b) of this section shall be accompanied by a site development plan pursuant to section 32-128 of this chapter and building plans, all county, state and federal permits required by law or regulation and such other relevant information as he may require. Each residential lot shall have the lot lines clearly marked on the ground and certified as correct by a registered professional engineer or land surveyor prior to applying for a building permit. All new construction permitted must be located with a distance of 1,000 feet of a pressurized fire hydrant.

(d) *Survey markers located on relevant points.* Surveyors control markers shall be located on each property line, including street right-of-way, at the point of closest approach of the planned structure to that line. No construction shall begin on site until the markers required by this chapter have been properly established and examined and approved by the building inspector. Failure to construct any structure in accordance with these markers shall be a cause for the building inspector to issue a stop work order and to revoke a building permit previously issued.

(e) *Areas of environmental concern.* Each application for a building permit shall include information as to the location of applicable areas of environmental concern. Prior to issuance of a building permit the building inspector shall ascertain whether the proposed structure or facility conforms to the state regulations for areas of environmental concern issued pursuant to the coastal area management act.

(f) *On-site inspection.* Before a permit is issued under subsections (a) or (b) of this section, an on-site inspection of the property shall be made by the building inspector.

(g) *Posting of permits prior to starting work.* Before work is started on any property, the required permit or permits shall be posted in a prominent place on the property.

(h) *Expiration of permit if work not started in specified time.* Each permit issued pursuant to subsection (b) and (c) of this section shall expire six months after the date of its issuance unless work authorized by the permit has been started.

(i) *Landscape permit; when required.* A permit from the building inspector shall be required to remove, relocate, grade, excavate, fill or disturb sand, soil, dirt or earth or remove any naturally occurring trees, shrubbery, grass or other naturally

occurring vegetation if such removal is in accordance with site plans for construction of a structure, for which plans a building permit either has been issued by the building inspector, only upon a determination by the building inspector, that the activity requested by the applicant is necessary to achieve one of the following purposes:

- (1) Erection or protection of a structure or improvement on the property;
- (2) Promote the growth and health of vegetation without significantly destabilizing the soil thereon or otherwise damaging the ecology of the property.

(j) Designation and protection of plants of special concern.

(1) It shall be the policy of the village to protect to the maximum extent feasible those trees and shrubs native to the maritime forest and dune areas of the village. All improvements shall be designed in such a way so as to minimize the destruction of plants of special concern and to preserve and to protect those remaining as much as practicable. Where relandscaping is required by this chapter, relandscaping shall be accomplished as much as feasible through the use of those plants which naturally occur within this area, including plants of special concern.

(2) The village hereby designates the following plants as plants of special concern:

(k) *Replacement of damaged shrubs; time limit; violation.* Any sand, soil, dirt or earth which has been removed, relocated, graded, excavated, added to, filled or disturbed in violation of this chapter and any naturally occurring vegetation which has been killed, damaged, destroyed or removed in violation of this chapter shall be restored or replaced within 60 days of notice from the building inspector. Each day after the 60-day period that the violator fails to perform such restoration or replacement shall constitute a new and separate violation. Any such replacement shall, where feasible, be accomplished through the use of plants which naturally occur within this area, with emphasis upon use of plants of special concern.

(Ord. No. 29, § 3.4, 8-17-1991; Ord. No. 2001-019, 9-15-2001; Ord. No.

2006-0902, 9-15-2006) **Sec. 32-45. Administrative procedures.**

(a) *Public hearing.* Any case involving an appeal ~~or~~, variance, or request for a special use permit requires a formal evidentiary public hearing to be held by the planning board ~~of adjustment~~ and any involving a change of zoning district, classification or other zoning ordinance changes requires a legislative public hearing to be held by the village council ~~to consider the~~ after receiving a recommendation ~~off from~~ the planning board. The planning board or council shall fix a reasonable time for the hearing and give the public notice as required by law as well as due notice to the parties in interest. At the hearing, any person or party may appear in person or by agent or attorney. The board shall take action on a matter within a reasonable time after the termination of the proceedings.

(b) *Appeals.* Appeals may be taken to the planning board ~~of adjustment~~ by any person aggrieved or by any officer, department or board of the village affected by any decision of the zoning official. Such appeals shall be filed with the ~~board of adjustment~~ village clerk by notice specifying the grounds for appeal. Appeal shall be filed within 90 days from the date of the action being appealed. The village clerk shall transmit any properly filed appeal to the planning board. ~~The~~ officer from whom the appeal is taken shall forthwith transmit to the planning board ~~of adjustment~~ all papers constituting the record upon which the action appealed from was taken together with any additional written reports or documents as he deems pertinent. The planning board ~~of adjustment~~ may, after a public hearing, so long as such action is in conformity with the terms of this chapter reverse or affirm, wholly or in part, or may modify any order, requirements, decision or determination as ought to be made and to that end shall have the powers of the zoning official from whom the appeal is taken. ~~Action by the board of adjustments requires a minimum four-fifths vote as required by G.S. 160A-388(E).~~

(Ord. No. 29, § 3.5, 8-17-1991)

Secs. 32-46--32-60. Reserved.

DIVISION 2.

ENFORCEMENT AND PENALTIES*

~~*State Law Reference—Authority to provide penalties for enforcement of zoning ordinances, G.S. 160A-365.~~

Sec. 32-61. Enforcement authority.

This chapter shall be enforceable in accordance with provisions available in the G.S. 160A-175.

(Ord. No. 29, § 4.1, 8-17-1991)

Sec. 32-62. Reserved.

Sec. 32-63. Civil remedies.

(a) If a building or structure is erected, constructed, reconstructed or altered, repaired, converted or maintained or any building, structure or land is occupied or used in violation of the General Statutes of North Carolina, this chapter or other regulation made under authority conferred thereby, the village may apply to the district court, civil division or any other court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(b) In addition to an injunction, the court may enter an order of abatement as part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed and demolished or removed; that noxious grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring

the property into compliance with this chapter. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the village may execute the order of abatement. The village shall have a lien on the property for the cost of the executing an order of abatement.

(c) In addition to the civil remedies set forth herein:

(1) A person who fails or refuses to stop work on any structure immediately upon issuance of a stop order; or

(2) A person who occupies a structure overnight without issuance of a certificate of occupancy; shall be liable for a civil fine in the amount of \$2000.00. In addition to this amount, which shall be payable to the village, the violator shall pay all court costs and all reasonable attorney's fees required to produce a civil judgment to enforce this provision, this provision being enacted in accordance with the provisions of G.S. 160A-175(b).

(Ord. No. 29, § 4.3, 8-17-1991; Ord. No. 2011-0402, 4-15-2011)

Sec. 32-64. Equitable relief.

The village may apply to the superior court, civil division or other court of competent jurisdiction for an appropriate equitable remedy. It shall not be a defense to the village application for equitable relief that there is an adequate remedy at law.

(Ord. No. 29, § 4.4, 8-17-1991)

Sec. 32-65. Combination of remedies.

The village may choose to enforce this chapter by any one, all, or combination of the procedures in this article.

(Ord. No. 29, § 4.5, 8-17-1991)

Sec. 32-66. Procedure and remedies.

(a) Upon violation of any provision of this chapter, including but not limited to, both the failure to procure a landscape permit as required under section 32-44(a), and the removal of plants, including plants of special concern, after issuance of a landscape permit, which plants were not shown as designated for removal or alteration upon the plans submitted to the ~~building inspector~~zoning official for issuance of such a landscape permit and in addition to all other remedies allowed by law for violation of this chapter, the specific remedies set out in this section and section 32-44(k) shall be applicable.

(b) Whenever the ~~building inspector~~zoning official has probable cause to believe that a builder, contractor, subcontractor or other person, trade or business ~~that has been issued~~undertaken work or activity in violation of this chapter or in violation of the terms of a permit ~~or other development approval issued~~ pursuant to this ~~section has violated the terms of such permit, he shall notify the permit holder in writing of the nature of the violation. The permit holder~~chapter, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the permit and to the landowner of the property involved, if the landowner is not the permittee, by personal delivery, electronic delivery, or first-class mail. Any person receiving notice shall have five days to respond to this notice. Upon expiration of the five days within which response is to be made, the ~~building inspector~~zoning official shall decide whether a violation has occurred and shall notify the permit holder ~~or landowner~~ of his decision. If there has been a violation, he shall declare the ~~permit holder of the permit and the landowner of the property involved, if the landowner is not the permittee,~~ and any builder, contractor, subcontractor and any other person, to be in violation of this section.

(c) If a determination is made that a violation has occurred, the applicable permit may be suspended by order of the ~~building inspector~~zoning official and all work, other than that required to remedy the violation, shall cease on the project until the violation has been corrected to the satisfaction of the ~~building inspector~~zoning official, at which time and upon receipt of written notice from the ~~inspector~~zoning official that the error has been remedied, building may resume. It shall be specifically understood that failure to build in accordance with the site development plan pursuant to which the permit was issued or failure to comply in all respects with state and municipal building codes and ordinances shall be a violation of the terms of issuance of any applicable permit. Notice of violation shall specifically state the nature of the violation or violations claimed. Should construction be completed prior to any appropriate and required corrective action, no certificate of occupancy shall be issued by the village until such time as all required corrections have been performed.

(Ord. No. 29, § 4.6, 8-17-1991)

Secs. 32-67--32-80. Reserved.

DIVISION 3.

CHANGES AND AMENDMENTS*

~~* **State Law References:** Authority to change or amend zoning ordinances, G.S. 160A-385.~~

Sec. 32-81. Changes and amendments.

The village council may, on its own motion, upon recommendation of the planning board, or upon petition by any interested person, amend, supplement, change, modify, or repeal the regulations or district boundaries established by this chapter. A petition by an interested person shall be submitted to the village council through the planning board, which shall consider its merit and make a recommendation to the village council. In no case shall final action by the council be taken on amending, changing, supplementing, modifying or repealing the regulations or district boundaries hereby established until a public hearing has been held by the council at which the parties in interest and citizens shall have an opportunity to be heard. The planning board may also hold one or more hearings prior to making its recommendations.

(Ord. No. 29, § 5.1, 8-17-1991)

Sec. 32-82. Action by the applicant.

(a) Initiation of amendments. Proposed changes or amendments to the zoning map or text of this chapter may be initiated by the village council, planning board or any interested party.

(b) Application. An application for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulations or district boundary, and the names and addresses of the owner or owners of the property involved. Such application shall be considered at the next meeting of the planning board held at least 30 days after the filing but no more than 75 days after the filing.

(c) Fees. There shall be a nonrefundable fee, according to the schedule adopted by the village for each application for an amendment, to cover costs of advertising and other administrative expenses involved.

(d) Public hearing notices. When a change in the zoning classification of a piece of property is requested, the applicant shall provide to the zoning official, a list of names and addresses, as obtained from the tax listings and tax abstract, of all ~~adjacent~~abutting property owners and all owners of property under consideration for rezoning along with three sets of business (#10) envelopes stamped with a first class stamp and addressed to each person on the list. These addressed envelopes and the list shall be submitted at least 15 ~~working~~business days prior to the public hearing of the planning board. The zoning official shall verify the list, then mail notices of the public hearing to each person on the list at least 10 but not more than 25 days prior to the date of the hearing and shall certify that fact to the village. Such certification shall be deemed conclusive in the absence of fraud. For zoning map amendments notice shall also be made by posting the property concerned at least 10 days prior to the date of any hearing thereon. The second set of envelopes shall be used for notification of the recommendation of the planning board. The third set submitted will be used for notification of the village hearing.

(Ord. No. 29, § 5.2, 8-17-1991)

Sec. 32-83. Action by the planning board.

(a) Every proposed amendment, supplement, change, modification or repeal of this chapter shall be referred to the planning board for its recommendation and report. The planning board shall hold a hearing making its recommendation.

(b) The following policy guidelines shall be followed by the planning board concerning zoning amendments:

(1) The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories;

(2) There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group;

(3) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district requirements and not merely uses which applicants state they intend to make of the property involved); and

(4) There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.

(c) A petition to amend the district boundaries or regulations established by this chapter shall be considered by the planning board at its next regular monthly meeting or any called special meeting, provided it has been filed, complete in form and content, at least 30 days prior to such meeting. Otherwise, consideration may be deferred until the following monthly meeting.

(d) The planning board shall render its recommendation on any properly filed petition within 30 days after the public hearing if one is held and shall submit its recommendation including its reasons therefor, to the village council.

~~(e) Members of appointed boards providing a recommendation to the village council shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.~~

(f) The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

(Ord. No. 29, § 5.3, 8-17-1991; Ord. No. 2006-1003, 10-26-2006; Ord. No.

2006-1004, 10-26-2006) **Sec. 32-84. Action by the village council.**

(a) *Hearing; notice.* Before taking such lawful action as it may deem advisable, the council shall consider the planning board's recommendations on each proposed zoning amendment. If no recommendation is received from the planning board within 60 days after the planning board hearing, the proposed amendment shall be deemed to have been formally recommended by the planning board. The village council shall hold a public hearing. Notice of the public hearing shall be published in a newspaper of general circulation in the area of Bald Head Island at least once each week for two successive weeks prior to the hearing according to state regulations and by mailing notices to adjoining property owners in the envelopes provided by the applicant. ~~Notice at least 10 but not more than 25 days prior to the date of the hearing.~~ For zoning map amendments notice shall also be made by posting the property concerned at least 10 days prior to the date of the hearing. The applicant, the planning board and the zoning administrator shall be given written copies of the council's decision and the reasons therefor.

(b) *Procedure.*

(1) A village council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct substantial, and readily identifiable financial impact on the member.

(2) Before taking such lawful action, the village council shall consider the planning board's recommendation on each proposed amendment. Prior to adopting or rejecting any zoning amendment, the village council shall adopt a statement describing whether its action is consistent ~~with the adopted Land Use Plan and explain why the board considers the~~ or inconsistent with an adopted comprehensive plan. Additionally, when adopting or rejecting any petition for a zoning map amendment, village council shall adopt a statement analyzing the reasonableness of the proposed rezoning taking into account, among any other applicable factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken to be reasonable and is in the public interest; and (v) any changed conditions warranting the amendment.

(Ord. No. 29, § 5.4, 8-17-1991; Ord. No. 2006-1005, 10-26-2006)

Sec. 32-85. Protest to an amendment.

(a) In order to protest any amendment to this chapter, a form provided by the zoning official and signed by the owners of 20 percent or more either of the area of the lots included in the proposed change, or of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, shall be filed with the zoning official. Thereafter, such amendments shall not become effective except by a favorable vote of three-fourths of all the members of the village council. These provisions shall not, however, apply to any amendment which initially zones property added to the coverage of this chapter. No protest against any change in or amendment to the regulations or district boundaries established by this chapter shall be valid or effective under the provisions of section 32-84 unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment and unless it shall have been received by the zoning official in sufficient time to allow at least two normal workdays excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

(b) Protest petitions only apply to zoning map amendments and are not applicable to text amendments.

(c) For the purposes of this section, vacant positions on the council and members who are excused from voting shall not be considered 'members of the council' for calculation of the requisite supermajority.

(d) A petitioner can withdraw their protest any time up to the voting time on the rezoning.

(Ord. No. 29, § 5.5, 8-17-1991; Ord. No. 2006-1006, 10-26-2006)

Secs. 32-86--32-100. Reserved.

DIVISION 4.

PLANNING BOARD OF ADJUSTMENT

~~State Law References: Board of adjustment, G.S. 160A-388.~~

Sec. 32-101. Establishment.

(a) The village council shall appoint a planning board consisting of five members and two alternates to hear appeals of administrative decisions, variance requests, special use permits, or any other quasi-judicial decision permitted by Chapter 160D of the of the General Statutes of North Carolina and to provide a recommendation to village council on proposed amendments, supplements, changes, modifications or repeals of this chapter. The term of each regular member and alternate is three years commencing on July 1 of the year of appointment, except that in appointing the initial planning board under this ordinance, council shall appoint two regular members and one alternate to an initial two-year term that expires June 30, 2023, in order to create staggered terms. There are no term limits for service on the planning board. Council may fill vacancies for the unexpired term only.

~~(a) The village council shall appoint a board of adjustment consisting of five members and two alternates. The two alternates shall substitute at meetings for absent members. When substituting, such alternates shall have the same voting privileges as an appointed member. The initial establishment of the board will involve staggered term appointments as follows:~~

- ~~(1) Two members appointed for three-year terms.~~
- ~~(2) Three members appointed for two-year terms.~~
- ~~(3) Alternate members appointed for two-year terms.~~

~~After initial seating of the board, all members and alternates shall be appointed by the village council for three-year staggered terms.~~

(b) The two alternates shall substitute in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. When substituting, such alternates shall have the same voting privileges as a regular member.

(c) A member of the planning board shall not ~~participate in or~~ vote on any quasi-judicial ~~matter~~decision in a manner that would violate an affected persons' constitutional rights to an impartial decision maker. Impermissible ~~conflicts~~violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. A member of the planning board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member of the planning board shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. If an objection is raised to a ~~member's~~planning board member's participation at or prior to the hearing or vote on a particular matter, whether quasi-judicial, advisory, or legislative, and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(Ord. No. 29, § 6.1, 8-17-1991; Ord. No. 2006-1007, 10-26-2006)

Sec. 32-102. Procedures.

(a) *Officers.* The planning board ~~of adjustment~~ shall hold ~~its first~~an organizing meeting annually in the month of August. At that meeting, the planning board ~~of adjustment~~ shall elect one of its members to serve as chair and preside over the board's meetings and one member to serve as vice-chair to serve as acting chair in the absence of the chair. The persons so designated shall serve in these capacities for one year and shall be eligible for reelection. Vacancies in these offices may be filled for the unexpired term only.

(b) *Meetings.*

(1) ~~Meetings of the board of adjustment~~Other than the organizing meeting, meetings of the planning board shall be held at the call of the chair and at such other times as the majority of the board may determine. All meetings of the planning board of adjustment shall be open to the public. The board shall keep minutes of its procedures, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact; and final disposition of ~~appeals shall be taken~~all matters before the board, all of which shall be of public record. The concurring vote of four-fifths of the members of the board shall be necessary to ~~reverse any order, requirement, decision or determination of the zoning official or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant a variance from the provisions of this chapter.~~grant a variance. A majority of the members shall be required to make an advisory or legislative decision or decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.

(2) Vacant positions on the planning board and members who are disqualified from voting on a quasi-judicial matter shall not be considered ~~members of the planning board~~ for calculation of the requisite ~~supermajority~~majority if there are no qualified alternates available to take the place of such members.

~~(c) Appeals. An appeal from the decision of the zoning official may be taken to the board of adjustment by any person, firm, or corporation aggrieved, or by any officer, department, board or bureau of the town. Such appeal shall be taken within 90 days after the decision by the zoning official, by filing with the zoning official and with the board a notice of appeal, specifying the grounds thereof. The zoning official shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The board of adjustment shall fix a reasonable time for hearing of the appeal, giving notice to all participants by registered mail. An appeal stays all proceedings in furtherance of the action appealed from, unless the zoning official certifies to the board, after notice of the appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charge is transitory in nature, a stay would seriously interfere with the enforcement of this chapter, in which case, proceedings shall not be stayed other than by a restraining order, which may be granted by the board or by a court of record to whom an appeal has been made.~~

(c) Quasi-judicial procedures.

(1) Notice of hearing. The planning board shall set a hearing on an appeal of an administrative decision, a variance request, a special use permit, or any other quasi-judicial matter within a reasonable time, not to exceed 60 days, following receipt of an appropriate notice or application. The planning board shall give notice of the hearing to the person or entity whose appeal or application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice(s) shall be sent by registered mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the village shall prominently post a notice of the hearing on the site that is the subject of the hearing or upon an adjacent street.

(2) Administrative materials and evidence.

a. All applications, reports, and written materials relevant to the matter being considered shall be transmitted in written or electronic form to the planning board and to the appellant or applicant and to the landowner if that person is not the appellant or applicant at least 5 days prior to the hearing. Such materials shall become part of the hearing record unless objected to and excluded.

b. The chair or any member temporarily acting as chair is authorized to rule on jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party. The chair's rulings may be appealed to the full planning board at the hearing.

c. All testimony before the planning board in a quasi-judicial matter must be under oath and recorded. The chair or any member temporarily acting as chair or the village clerk are authorized to administer oaths to witnesses in any matter coming before the planning board.

d. The planning board through its chair or any member temporarily acted as chair may subpoena witnesses and compel the production of evidence as permitted by state law.

(3) Voting.

a. A simple majority shall be required to decide all quasi-judicial matters or to determine an appeal made in the nature of certiorari, except that the concurring vote of four-fifths of the members shall be necessary to grant a variance.

b. Vacant positions on the planning board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the planning board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(4) (f) Decisions.

a. The planning board shall determine contested facts and make its decision within a reasonable time, not to exceed 15 days following the date of the hearing. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the planning board's determination of contested facts and their application to the applicable standards, and be approved by the planning board and signed by the chair or other duly authorized member of the board.

b. A quasi-judicial decision is effective upon filing the written decision with the village clerk.

c. The zoning official shall deliver the decision of the planning board within a reasonable time by personal delivery, electronic mail, or first-class mail to the appellant or applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. Following delivery, the zoning official shall certify to the village clerk that proper notice has been made.

(Ord. No. 29, § 6.2, 8-17-1991; Ord. No. 2006-1008, 10-26-2006)

Sec. 32-103. Duties generally.

~~It is the~~ The planning board shall exercise all duties that may be assigned to planning boards under G.S. 160D-301 and boards of adjustment under G.S. 160D-302. Notwithstanding the foregoing, it is the express intent of this chapter that all questions of interpretation and enforcement shall first be presented to the zoning official or his authorized representative, and that such questions shall be presented to the planning board ~~of adjustment~~ only on an appeal from the decision of the zoning official or his authorized representative, and that recourse from the decision of the planning board ~~of adjustment~~ shall be to the courts as provided by law.

(Ord. No. 29, § 6.3, 8-17-1991)

Sec. 32-104. ~~Administrative review~~ Appeals and variances.

(a) *Generally.*

(1) The planning board ~~of adjustment~~ shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning official in the enforcement of this chapter. The board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination and to that end shall have the powers of the zoning official from whom appeal is taken.

(2) The planning board ~~of adjustment~~ shall authorize ~~upon appeal~~ in specific cases variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in undue hardship, so that the spirit of this chapter shall be observed and substantial justice done.

~~(3) The chairman or any member temporarily acting as chairman is authorized to administer oaths to witnesses in any matter coming before the board. All testimony before the board must be under oath and recorded.~~

~~(4) The decision of the board of adjustment shall be delivered to the village clerk, to the applicant by personal service, by certified mail, or registered mail, return receipt requested and to anyone else at the hearing who makes a request for a copy. A charge shall be made to the appellant according to town policy in order to cover administrative and advertising costs.~~

(b) ~~Granting variances~~ Appeals.

(1) An appeal from the decision of the zoning official may be taken to the planning board by any person, firm, or corporation with an ownership, leasehold or other property interest in the property that is subject of the decision being appealed, an option or contract to purchase the property that is the subject of the decision being appealed, or by any officer or department of the village. Such appeal shall be taken within 30 days after the decision by the zoning official, by filing with the village clerk and with the planning board a notice of appeal, specifying the grounds thereof. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal.

(2) An appeal stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal and any subsequent civil actions, unless the zoning official certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the this chapter, in which case, proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record to whom an appeal has been made. If enforcement proceedings are not stayed, the appellant may file with the zoning official a request for an expedited hearing of the appeal, and the planning board shall meet to hear the appeal within 15 days after the request is filed.

(3) When hearing an appeal, the planning board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The planning board shall have all the powers of the official who made the decision.

(c) Variances.

(1) ~~(1)~~ Public hearing and certain conditions required. In order to grant a variance, the planning board of adjustment must conduct a(n) evidentiary public hearing and find the following conditions to be met:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in questions because of its size, shape, or topography that are not applicable to other lands or structures in that same district;
- b. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning districts in which the property is located;
- c. A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located;
- d. The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;
- e. The special circumstances are not the result of the actions of the applicant; and

~~f. f.~~ The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

Where applicable, the planning board may also consider whether granting a variance is necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(2) *Evaluation of impact of grant.* In considering all proposed variances from this chapter, the planning board shall, before making any finding in a specified case, first determine that the proposed variance will not constitute any change in the zone shown on the zoning map and will not impair an adequate supply of light and air to adjacent property, or materially increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals and general welfare.

(3) *No variance for prohibited uses.* No permitted use of land in other districts shall be considered grounds for the issuance of a variance. Under no circumstances shall the planning board ~~of adjustment~~ grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any expressly or by implication prohibited by the terms of this chapter in the district.

(4) *Attachment of conditions.* In granting a variance the planning board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purposes of this chapter. In order for such conditions to be effective the applicant or landowner must consent to the same in writing. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under sections 32-61 through 32-65 of this chapter.

(Ord. No. 29, § 6.4, 8-17-1991)

Sec. 32-105. Appeals in the nature of certiorari.

~~Appeals to the superior court may be taken by any~~ Any person, firm, or corporation ~~aggrieved, or by any officer, department, board or bureau of the village affected by any~~ with standing under G.S. 160D-1402 may appeal a quasi-judicial decision of the planning board ~~of adjustment~~ in the nature of certiorari to the superior court, provided such appeals shall be taken within 30 days after the decision of the planning board ~~of adjustment~~ is filed ~~in the office of the zoning official~~ with the village clerk, or after a written copy thereof is delivered to the applicant, whichever is later.

(Ord. No. 29, § 6.5, 8-17-1991)

Sec. 32-106. General provisions.

No land owned by the State of North Carolina may be included within an overlay district or a special use or ~~conditionalspecial~~ special use district without the approval by the Council of State as required by G.S. 160A-392 ~~D-913~~.

(Ord. No. 2006-1009, 10-26-2006)

Secs. 32-107--32-120. Reserved.

ARTICLE III.

ZONING DISTRICTS AND REGULATIONS*

~~* State Law References: Authority to divide territorial jurisdiction into districts, G.S. 160A-382.~~

Sec. 32-121. Zoning districts established.

(a) In order to implement the intent of this chapter and the charter, there are hereby created zoning districts with the following designations:

- (1) PD-1 Planned Development 1
- (2) PD-2 Planned Development 2
- (3) PD-2C Planned Development 2 Commercial
- (4) PD-3 Planned Development 3

- (5) PD-3C Planned Development 3 Commercial
- (6) PD-3C-1 Lighthouse-Chapel Overlay District
- (7) PD-4 Planned Development 4
- (8) MFPO Maritime Forest Protection Overlay
- (9) NC Neighborhood Commercial

(b) The creation of the zoning districts in subsection (a) of this section is a recognition of the charter and an attempt to implement the master plans, which have been developed for Bald Head Island's unique environmental setting and the island's current development character.

(c) In setting out the respective districts, careful consideration is given to the suitability of each and every district of the particular regulations applied thereto. Also considered are the necessary, proper and comprehensive arrangements of various land uses and densities of population in accordance with well-thought-out master plans for the physical development of the area.

(Ord. No. 29, § 8.1, 8-17-1991)

Sec. 32-122. District boundaries and zoning map.

The boundaries of the districts are shown upon the map accompanying the ordinance from which this chapter is derived and made a part hereof, entitled "Zoning Map, Village of Bald Head Island, North Carolina." The zoning map and all the notations, references and all amendments thereto, and other information shown thereon is hereby made a part of this chapter the same as if such information set forth on the map were all fully described and set out in this chapter. The zoning map properly attested is on file in the office of the village clerk and is available for public inspection.

(Ord. No. 29, § 8.2, 8-17-1991)

Sec. 32-123. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any district shown on the zoning map, the following rules shall apply:

(1) *Use of property lines.* Where district boundaries are indicated as approximately following street lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, watercourses, and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.

(2) *Use of the scale.* In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.

(3) *Zoning official.* In case any further uncertainty exists, the zoning official shall interpret the intent of the map as to the location of such boundaries.

(4) *Board of adjustment/Planning board.* The decision of the zoning official may be appealed to the [planning board](#) ~~of adjustment~~ by an affected property owner.

(Ord. No. 29, § 8.3, 8-17-1991)

Sec. 32-124. Interpretation of district regulations.

Regulations for each district shall be enforced and interpreted according to the following rules:

(1) *Uses by right and ~~conditional~~special uses.* All listed permitted uses are permitted by right according to the terms of this chapter. ~~Conditional~~[Special](#) uses are permitted subject to compliance with the additional regulations specified.

(2) *Minimum regulations.* Regulations set forth in this chapter shall be minimum regulations. If the requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.

(3) *Restrictive covenants and deed restrictions.* Unless restrictions established by covenants and deed restrictions running with the land are prohibited by the provisions of this chapter, nothing contained in this chapter shall be construed to render such covenants or restrictions inoperative.

(Ord. No. 29, § 8.4, 8-17-1991)

Sec. 32-125. Descriptions and purposes of the districts.

(a) *PD-1 planned development 1 district.*

(1) Planned development 1 district is established as a district in which the principal use of the land is for dwellings. It is the intent that this district encourage the construction and continued use of the land for single-family residential dwellings. This district is intended to continue the use of and enjoyment of the lighthouse, golf course, tennis courts, property owners clubhouse and other leisure activities and their attendant uses. Furthermore, this district benefits by having all lots adjacent to common areas which are to be enjoyed by all property owners or limited common areas which are necessary to serve a few adjoining lots.

(2) Uses of this district shall not include any commercial or trade activity except that associated with a golf course or private clubhouse and limited activities attendant to an inn facility.

(3) It is the intent of this district to preserve and protect as much as possible the natural environment by minimizing lot coverage and maximizing common areas and open spaces.

(b) *PD-2 planned development 2 district.*

(1) Planned development 2 district is established as a district in which the principal use of the land is for residential dwellings, the preservation and protection of a sizable maritime forest and, in general, development compatible with planned development 1 district.

(2) Furthermore, it is the intent of this district to protect the natural environment by limiting the maximum lot coverage, providing common areas adjacent to all lots, clustering residential nodes, and preserving a sizeable maritime forest area without intrusions. However, this area may include utility facilities necessary for development of the island.

(c) *PD-2C planned development 2 commercial district.* This district is established as a district in which the principal uses of the land are for commercial, municipal and utility service areas for the entire island. This district is intended to provide:

- (1) A town hall service area;
- (2) Commercial service areas;
- (3) A pedestrian-oriented commercial center;
- (4) A property owner's clubhouse and related sports activities and their attendant uses; and
- (5) Transient inns and their attendant facilities.

(d) *PD-3 planned development 3 district.* Planned development 3 district is established as a district in which the principal use of land is residential but with some offices allowed and bed and breakfast without commercial restaurant facilities.

(e) *PD-3C planned development 3 commercial district.* Planned development 3 commercial district is established as a district in which the principal use of land is for mixed use which includes residential uses, commercial services, offices, marina and marina related uses, club facilities, transient inn uses and leisure activities and their attendant uses. Furthermore, it is the intent of this district to encourage the construction and continued use of land necessary for the embarkation and debarkation of ferry passengers.

(f) *PD-4 planned development 4 district.* Planned development 4 district is established as a district in which the principal use of the land is for single-family residential dwellings on large lots, leisure activities and the protection of the natural environment.

(g) *MFPO maritime forest protection overlay district.* The specifications and standards of this district were established in order to permit development that is compatible with the environmentally sensitive nature of the Bald Head Island and Middle Island maritime forests, and to preserve land in a natural state where such land is considered to be a vital link in the local groundwater replenishment cycle and where the destruction of natural vegetation could have a harmful effect on the stability of the soil and its resistance to erosion. More specifically, the maritime forest protection overlay district is designed to protect natural features and functions of the area in the interest of health, safety and general welfare of the residents and visitors to Bald Head Island and Middle Island. Such features include, but are not limited to, saltspray sheer zone vegetation, forest wetlands, relic dunes, and dune ridges.

(1) *Applicability.* The provisions of this district shall, to the extent permitted by the law, apply to those areas within the corporate limits of the village that may be, from time to time, designated on the official map or maps designating certain areas thereon as maritime forest protection overlay district adopted by the village. This overlay district is intended to provide additional protection to the maritime forest, while allowing all uses contained in the PD district, in which the overlay occurs, to be allowed. The golf course from the fairways, tees, and greens to adjacent rights-of-way or lot lines are expected from this overlay district.

(2) *Performance standards.* The following performance standards apply to all uses within the maritime forest protection overlay district. These performance standards are in addition to or over and above the requirements of the applicable zoning district.

a. *Prestaking or preconstruction lot clearing.* Some clearing of understory trees and shrubs may be required to prepare a site for sale or survey or to stake the proposed building site. Permission to clear such understory, trees and shrubs shall not be required by the building inspector, but shall be limited to such vegetation with a three-inch caliper at four feet above grade.

b. *Lot alteration.* No alteration of a lot or building site shall occur prior to the issuance of a building permit. Trees shall not be removed except as necessary for the construction of the principal structure, accessory use, parking area, driveway access and septic tank/nitrification field system. Soil disturbing activities and site alteration shall not exceed the minimum necessary to provide for the location of the principal use structure, any accessory use improvements, driveway access, and utility service improvements. No specimen tree (a 24-inch diameter trunk at four feet above ground level) shall be removed unless construction is impractical without the removal of such tree.

c. *Construction containment.* The area of construction shall be limited to five feet outside of the perimeter of structure construction and two feet outside of a driveway referred to in this chapter as "limit of construction." A lay down yard for construction material must be shown on plans submitted for approval as well as the limits of construction. Both of these areas shall be surrounded by a construction fence which shall be maintained until all construction is completed. Movement of construction equipment or placement of material outside of this containment is prohibited.

d. *Wetland buffer.* Natural wetlands and ponds shall not be filled. No paved area or any part of a ground absorption wastewater treatment system shall be located within 20 feet of any stream, pond, or wetland. Pilings for a residence may be placed in the wetlands boundary as long as no fill is placed in the wetlands. For lots platted before April 1, 1991, fill is allowed to the extent permitted by applicable regulatory agency, only if the property is unbuildable or unaccessible without the fill permit. Open decking or boardwalks may be built over wetlands where approved by the local CAMA permit officers and division of coastal management or other appropriate governmental agency or authority.

e. *Off-street parking, driveways and carports.* Parking areas on a lot shall be located under the principal structure whenever possible. All off-street parking improvements and driveways shall be designed to minimize impervious lot coverage. Driveway widths shall be limited to ten feet.

f. *Clearing and pavement width for roads, streets, and culs-de-sac.*

1. The total combined width of paved area within a right-of-way for a road or street shall not exceed 22 feet.

2. The total width of paved area within a cul-de-sac at the end of a road or street shall not exceed 30 feet; nor more than 30 feet of any road or street right-of-way, regardless of the total width of such right-of-way shall be cleared of plant or tree growth. Notwithstanding the provisions of this section, the width of paved area and the width of cleared right-of-way for intersections of streets or roads and culs-de-sac may exceed the permitted limits set out hereinabove to accommodate an appropriate turning radius, as determined by the village council, for vehicular traffic, including without limitation, emergency vehicles, fire protection and fighting equipment or vehicles and construction vehicles.

g. *Plant material installation.* There shall not be planted on any lot any shrubbery, trees, herbs, grasses or other flora unless same appears on the list of permissible shrubbery, trees, herbs, grasses or other flora to ensure that no plant material foreign to the natural ecology of the maritime forest protection overlay district which may be harmful to such ecology will be introduced into the maritime forest protection overlay district. Bald Head Island design guidelines recommendations and standards for development will be helpful to property owners in planning the installation of plant material.

(3) *Technical regulations.* Within the maritime forest district the following dimensional, setback, height, and other requirements shall be in effect:

a. *Setbacks.* The following setback requirements shall be applicable:

Single-family Lots of or over 9,000 square feet

Front yard	35 feet minimum
Side yard	10 feet minimum
Rear yard	10 feet minimum
Side yard corner lot	15 feet minimum

Single-family Lots up to 9,000 square feet

Front yard	25 feet minimum
5 feet to 20 feet (15 feet combined minimum of	
Side yard	the setbacks from joint property lines
Rear yard	10 feet minimum

Residential Cluster Lots

Front yard	10 feet minimum
Side yard	0 feet
Rear yard	10 feet minimum

(h) *PD-3C-1 lighthouse-chapel overlay district.* The specifications and standards of this district are established in order to permit development that is compatible with the pastoral environment of this district.

(i) *NC neighborhood commercial district.* The neighborhood commercial district (NC) is primarily intended to accommodate very low intensity office, and personal service uses within residential areas. The district is established to provide convenient locations for businesses, which serve the needs of island residents and visitors without disrupting the character of the neighborhood. The neighborhood commercial district is a transitional land use zoning district in which the principal use of land is residential with some office and service uses allowed to serve the surrounding residential districts and in which traffic and parking congestion can be reduced to a minimum in order to preserve residential values and promote the general welfare of the surrounding residential districts.

(1) *Buffer requirements.* Nonresidential uses which abut undeveloped lots or lots utilized for residential purposes shall maintain a ten-foot undisturbed vegetative buffer along rear and side property boundaries.

(2) *Parking and driveway requirements.*

Minimum number of required off-street parking spaces, by land use.

Residential Uses

Single-family dwellings
Duplex dwellings

Required Spaces

2 per dwelling unit
2 per dwelling unit

Nonresidential Uses

Required

Spaces

Library	1 per 400 sq. ft.
Real Estate Office	1 per 500 sq. ft.
Offices, other than real estate	1 per 500 sq. ft.
Utility Services	1 per 500 sq. ft.
Clinics	1 per 500 sq. ft.
Chapel	1 per 3 sanctuary seats
Utility facilities, public or private	1 per 500 sq. ft.

location and design of parking areas/driveways.

1. All parking areas shall be located and designed so as to avoid undue interference with the use of public streets and alleys.

2. There shall be a maximum of one driveway per lot. In the case that adjacent lots are under single ownership, shared driveways shall be utilized in an attempt to provide the minimum number of access points possible.

(3) *Maximum floor area ratio.* The total square footage of floor area permitted in the neighborhood commercial zoning district shall be determined as a ratio to the total square footage of the land area of the site. The ratio shall be .20. The floor area shall be the sum of the areas on all floors of the building measured from the outside faces of the exterior walls, including halls, lobbies, stairways, elevator shafts, enclosed porches and balconies, and belowgrade floor areas.

(4) *Recombination of lots.* Lots may not be recombined for the purpose of increasing the size of the structure built on the lot. The maximum floor area ratio would apply to the largest lot existing prior to the recombination.

(5) *Prohibited uses and structures.*

- a. Commercial, retail sales.
- b. Restaurants, cafes and other food services.
- c. Warehousing, storage, and distribution facilities.
- d. All uses and structures not of a nature specifically or provisionally permitted in this chapter.

(Ord. No. 29, § 8.5, 8-17-1991)

Sec. 32-126. Permitted and conditional special uses.

The following uses are listed as permitted (P) or conditional special (CS) use in each zoning district. Prohibited uses are either not listed or a blank space appears in the column. Such permitted or conditional special uses as set forth in this section shall be the only uses to which any land or structures located thereon shall be put and shall be the exclusion of all other uses whether listed in this section or not, with the exception of commercial filming activity as permitted by Sec. 32-255. (See article VII of this chapter for provisions governing conditional special uses and commercial filming activity.)

Uses	PD-1	PD-2	PD-2C	PD-3	PD-3C	PD-3C-1	PD-4	NC
RESIDENTIAL HOUSING TYPES								
Accessory uses to residential dwelling	P	P	P	P	P		P	P
Chapel	P	CS				P		CS
Dwelling, duplex	CS	CS		P	P			CS
Dwelling, multi-family (including townhouse, condos)	P	CS	P	P	P			

Dwelling, single-family, attached or detached	P	P	P	P	P		P	P
Home offices and occupation	P	P		P			P	P
Trailer, tow	P	P	P	P	P	P	P	P
Zero lot line dwellings	P	P	P	P				
NONRESIDENTIAL								
Accessory structures	P	P	P	P	P		P	P

Bicycle shop including rental and repair				P		P		
Clinics, medical services			P		P			P
Clubhouse, public or private	P	<u>GS</u>	<u>GS</u>	<u>GS</u>	P		<u>GS</u>	
Commercial filming activity			S		S			
Commercial, retail services			P		P	<u>GS</u>		
Freestanding baffled lighting			<u>GS</u>		<u>GS</u>	<u>GS</u>		
Golf course, including pro shop and related services	P	P						
Government offices and facilities	<u>GS</u>	<u>GS</u>	P	<u>GS</u>	P	P	<u>GS</u>	<u>GS</u>
Library	P	P	P	P	P	<u>GS</u>		P
Lodging facilities, including inn, hotel and motel	P		P	P	P			
Marina and marina related				P	P		<u>GS</u>	
Offices, other than real estate			P		P	<u>GS</u>		P
Pre-manufactured structure			P					
Real estate offices			P		P	<u>GS</u>	<u>GS</u>	P
Recreational facilities	<u>GS</u>	<u>GS</u>	<u>GS</u>	<u>GS</u>	<u>GS</u>	<u>GS</u>	<u>GS</u>	
Restaurants, cafes, and other food services (limited to club)	P		P		<u>GS</u>			
Trailer, construction (on job site)	P	P	P	P	P	P	P	P
Trailer, food service ⁴			<u>GS</u>					
Trailer, passenger			P		P			
Trailer, tow			P		P			
Utility facilities, public or private	<u>GS</u>	<u>GS</u>	<u>GS</u>	<u>GS</u>	<u>GS</u>		<u>GS</u>	<u>GS</u>
Utility services, public or private	P	P	P	P	P	P	P	P
Veterinary clinic			<u>GS</u>					

Water transportation including docks, piers, ticket booths, vehicle parking, etc.					P		<u>CS</u>	
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~~1. After April 17, 2015, pre-existing food service trailers located in zoning districts other than Zoning District PD-2C will not be eligible for a conditional use permit and will constitute a nonconforming use that must be removed by April 17, 2018.~~

(Ord. No. 29, § 8.6, 8-17-1991; Ord. of 3-18-2000; Ord. No. 2006-1102, 11-17-2006; Ord. No. 2009-0502, 5-5-2009; Ord. No. 2012-0301, 3-16-2012; Ord. No. 2015-0403, passed 4-17-2015; Ord. 2016-10-01, 10-21-2016)

Sec. 32-127. Dimensional density and structure requirements.

(a) *Dimensional requirements by district.* The dimensional requirements table (Table 1 of this section) lists dimensional density maximums and minimum structure requirements for each zoning district.

(b) *Corner visibility.* No planting, fence or other obstruction to visibility at elevations of three to seven feet above street level shall be erected, maintained or allowed to exist within 15 feet of the intersection of any street right-of-way lines.

Table 1: Dimensional Requirements

Residential:

Dimension Requirements for Dwelling Units	PD-1	PD-2	PD-2C	PD-3	PD-3C	PD-3C-1	PD-4	NC
Minimum Lot Size Square Feet	9,500	7,000	900	All References to Type I, II, III, IV, V, VI, VII, and VIII, lots in the PD-3 Zoning District shall refer to the Urban Code of the Harbour Association	400	5,000	20,000	9,500
Maximum Number of Dwelling Units per Acre (SF/MF)	4.6/14	6.2/14	14		14	8	2.1	4.6
Minimum Front Yard Setback (SF/MF)	35'/10'	10'/10'	10'		10'	10'	35'	30'
Minimum Side Yard Setback (SF/MF)	10'/0'	10'/0'	10'/0'		5'/0'	10'	10'	15'/0'
Minimum Side Yard Setback on Corner Lots	15'	15'	15'		15'	10'	25'	20'
Minimum Rear Yard	10'	10'	10'		5'	10'	10'	15'
Maximum Building Height (1) (SF/MF)	35'/45'	35'/45'	45'		50'	45'	35'	35'
Maximum Lot Coverage (2)	25%							30%
Minimum Dwelling Unit (3) Size:	1,600	1,000	<900		<400		1,600	1,600

Harbour Lots

referenced in section 32-127, note (3)

Type I-V and VII & VIII Lots Minimum Lot Size Square Feet	3,200	
Type VI Lot Minimum Lot Size Square Feet	900	
Type I-V and VII & VIII Lots (Maximum Units Per Acre)	13.61	
Type VI Lot (Maximum Units Per Acre)	48.4	

Note: For the Type I, II, III, IV, V, VI, VII, and VIII lots, for minimum lot size and applicable setbacks refer to the Urban Code recorded in those restrictive covenants for the Bald Head Harbour.

Non-Residential

Dimension Requirements for Non-Residential Units	PD-1	PD-2	PD-2C	PD-3	PD-3C	PD-3C-1	PD-4	NC
Minimum Lot Size Square Feet	9,500	7,000	900	400	400	5,000	20,000	9,500
Minimum Front Yard Setback	35'	10'	15'	Refer to	0'	10'	35'	30'
Minimum Side Yard Setback	10'	10'	5'		0'	10'	10'	15'

Minimum Side Yard Setback on Corner Lots	15'	15'	10'	Urban Land Code	5'	10'	25'	20'
Minimum Rear Yard Setback	10'	10'	10'		0'	10'	10'	15'
Maximum Building Height (1)	45'	45'	45'	45'	50'	45'	35'	35'

Note: For use of the above-referenced dimensional requirements table, the following rules shall apply:

(1) The building height is measured from the lowest natural point on the ground beneath a building and its attached structure to the highest point on its roof. Where any elevation beneath the building footprint falls below an elevation of five feet above mean sea level (amsl), the lowest elevation shall be considered five feet amsl.

(2) Up to 300 square feet can be screened porch provided roof of porch forms integral part of roof line of main structure.

(3) All references in this Table 1 of this section to Types I, II, III, IV, V, VI, VII, and VIII lots shall refer to the designation of such lots as set forth in those restrictive covenants for the Bald Head Harbour, recorded in book 697, page 267, and book 722 at page 952 of the county registry, and as shown on those maps of the same recorded in map cabinet S, page 142 and map cabinet U, page 157, map cabinet U, page 41, map cabinet U, page 66, and map cabinet S, page 300, of the county registry. N/A-Not applicable.

(4) Notwithstanding any provision to the contrary contained in this chapter, in zones PD-3 and PD-3C, to the extent that an automatic fire sprinkler system shall be installed in the primary living unit sought to be permitted for construction on any lot, encroachments as more fully described in this chapter shall be allowed in such setbacks. These encroachments shall include roof overhangs, bay windows, utility system enclosures or screens, fences, trellises, walkways, and similar appurtenant structures. Furthermore, should any garage (structure intended for storage of electric powered vehicles, whether or not inclusive of a crofter or other habitable space) include an automatic fire sprinkler system, the structure shall be allowed within the applicable setback. In no event shall any overhang or encroachment extend across any property line, or over any street right-of-way. A fire sprinkler system shall be defined and installed as per NFPA 13; 13 (R), 13 (D).

(5) Amendments to this chapter, dated January 22, 1999, shall not apply to any subdivision approval for residential cluster housing use, as to which all requirements of this chapter, as of the date of approval of such subdivision, shall be applicable.

(Ord. No. 29, § 8.7, 8-17-1991; Ord. No. 2006-1001, 10-20-2006; Ord. No. 2007-1001-2, 10-26-2007) **Sec. 32-128. Site development plan.**

A site development plan drawn to scale shall contain the following information for both multifamily and single-family dwelling and commercial properties:

(1) *Multifamily:*

- a. The name of planned development;
- b. The exact boundary lines of the planned development fully dimensioned by lengths and bearings, and the location on intersecting boundary lines of adjoining lands;
- c. Scale denoted both graphically and numerically;
- d. The plans for utility layouts, including sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to systems and/or sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, and gate valves;
- e. Street names;
- f. The location, purpose, and dimensions of areas to be used for purposes other than residential;
- g. Minimum building setback lines;

h. The names of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);

~~g. f.~~ The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use with the purpose of each stated;

i. Right-of-way lines, and pavement widths of all streets and the location and width of all adjacent streets and easements;

j. Property lines, building or other structures, watercourses, bridges, culverts, storm drains, and water retention or detention areas on the land to be subdivided;

k. Sufficient engineering data to determine readily and reproducibly on the ground every straight or curved boundary

line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearing, or deflection angles, radii, central angles and tangent distances for the centerline of curved streets and curved property lines that are not the boundary or curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute;

- m. The accurate locations and descriptions of all monuments, markers and control points;
- n. The deed restrictions or any other similar covenants proposed for the planned development, if any;
- o. The date of the survey and plat preparation;
- p. North arrow and declination;
- q. The name and location of any property, within the planned development or within any contiguous property, that is listed on the U.S. Department of Interior's National Register of Historic Places; likewise any property that has been designated by local ordinances as an historic property pursuant to ~~160A-400.1~~[D-940](#) et seq.
- r. The name, address, and telephone number of owner, registered surveyor, land planner, architect, landscape architect, and professional engineer responsible for the subdivision and the registration number and seal of the professional engineer and registered surveyor;
- s. Flood hazard areas according to most recent FEMA flood insurance rate map stating date of map adoption;
- t. Topographic information showing vertical contour every two feet;
- u. Show boundaries of areas of environmental concern (CAMA), show boundaries of outstanding resource waters (DEM), and show COE 404 wetlands;
- v. Total number and location of proposed dwelling units and other structures; total residential floor area; total height; total open space area;
- w. An inventory of all trees of caliper greater than 12 inches at four feet above ground level, those existing and those to be removed;
- x. Provisions for open space;
- y. Any other information requested by the village planning board or council.

(2) *Single-family*. For all single lot development proposals, a site development plan, drawn to scale, shall contain the following information:

- a. A perimeter survey showing:
 - 1. The lot boundaries, the bearing and distance of each;
 - 2. The location of applicable front, side and rear yard lines; adjacent streets;
 - 3. Any and all existing structures showing the location thereof on the survey, as well as distances from the closest lot line;
 - 4. Any and all proposed structures or proposed alteration or extension of an existing structure;
 - 5. All existing and proposed structures and intended use;
 - 6. Topographical information showing vertical contours every two feet;
 - 7. Boundaries of areas of environmental concern as defined in the Coastal Area Management Act;
 - 8. The 404 line as established by the U.S. Army Corps of Engineers and any other pertinent information necessary to determine compliance with the Coastal Area Management Act, Federal Emergency Management Act, and any other local, state, or federal statutes, ordinances or regulations applicable to the lot;
 - 9. Proposed location of driveway;
- b. The location and square footage of the proposed structure or addition thereof and its total height;

- c. The total square footage of the lot;
- d. The total square footage of the lot covered by impervious cover;
- e. The type of sewage disposal system and proposed source of potable water;
- f. A detailed site plan for the lot, which shall show the locations and types of naturally occurring vegetation and growth, including all trees thereon with a trunk equal to or greater than 12 inches in width at a height four feet above the ground, and the locations thereof. The drawing shall include the limit of construction line and proposals for restoration or relandscaping of any area of vegetation disturbed by the proposed use;
- g. Such other information as may be required by the zoning officer concerning the lot as may be necessary to determine compliance of the proposed development of the site with this chapter; and

h. Planting plan.

(3) *Nonresidential commercial.* For nonresidential (commercial) all elements under subsection (1) a. through x. of this section.

(4) *Vesting approval.* Vesting provision-approval of a site development plan by the village council will vest a property with zoning rights applicable at that time. Such vesting approval is valid for a period of two years. This vesting is intended to carry out provisions of G.S. 160-~~385.1~~D-108.1 and site development plans as used in this chapter constitute site specific development plans under the statute.

(Ord. No. 29, § 8.8, 8-17-1991)

Sec. 32-129. Homeowners' association amenity regulation.

Property, including but not limited to beach clubs, clubhouses, and other amenities, owned by a nonprofit homeowners' association ("homeowners' association amenity property"), which is held for the use, benefit, and enjoyment of all members of the association and in which each member of the association has an equal irrevocable right to use and enjoy the homeowners' association amenity property, such irrevocable right to use and enjoy the homeowners' association amenity property being appurtenant to taxable real property owned by a member of the association, shall be allowed, subject to the other restrictions within this chapter, within the various zoning districts of the village but only if the taxable property owned by the member(s) of the homeowners' association to which the property is appurtenant is located within the village.

(Ord. No. 2011-1201, 12-16-2011)

Secs. 32-130--32-160. Reserved.

ARTICLE IV.

ACCESSORY USES

Sec. 32-161. Dwellings as accessory uses.

(a) Dwellings may have accessory uses in residential districts if located inside the principal home used as a residence by the owner or relatives and for which no rent is charged. Manufactured homes shall not be used as accessory residences in any residential district.

(b) Dwellings may be accessory uses in the PD-3 district if located inside the principal building.

(Ord. No. 29, § 9.1, 8-17-1991)

Sec. 32-162. Retail sales and services as accessory uses.

Retail sales and services are permitted as accessory uses when clearly incidental to the principal use. In institutional settings such activities may include gift and book shops, coffee shops, lounges, pro shops, and beauty shops and barbershops.

(Ord. No. 29, § 9.2, 8-17-1991)

Sec. 32-163. Ornamental structures, fences and walls.

(a) *Specifications.* Ornamental structures not to exceed ten feet in height, fences and walls not to exceed four feet in height, and ground-level wooden walkways not to exceed 18 inches in height, may be constructed or erected on any property, or within any applicable building setback provided these structures do not impede site path visibility. Fences and walls shall be limited to four feet in height except that, in the following locations, fences and walls shall not exceed six feet in height:

(1) Within any nonresidential zone, when the purpose of the fence is to provide security or is to screen from rights-of-way or adjoining properties nonresidential activities or uses; or

(2) To provide screening between a residentially zoned property and a nonresidentially zoned property.

(b) *Scientific or ecological studies.* Notwithstanding any provision in this chapter to the contrary, fences or similar structures constructed for purposes of scientific or ecological study or analysis are allowed, subject to the following conditions:

(1) The zoning official determines that the purpose of the fence or similar structure is in the best interest of the village;

(2) The location, height and style of fencing is appropriate for the intended use as determined by the zoning official;

(3) The applicant has procured permission to construct the fence from the appropriate landowner; and

(4) The zoning official determines that the fence or structure will have no adverse impact on adjoining properties.

(c) *Maritime forest protection overlay district.* In the maritime forest protection overlay district, no disturbance, damage or destruction of trees, and only minor disturbance, damage or destruction of naturally occurring vegetation and growth shall result from the construction or placement of the proposed ornamental structures, walls, walkways or fences.

~~(d)~~ **(d)** *Permit required.* A permit for the permitted uses in this section must be procured prior to construction.

~~(e)~~ **(e)** *Sand fencing construction standards.* The purpose of the following regulations is to promote the most effective method of sand accretion utilizing sand fencing, and to minimize the fencing's impact on nesting sea turtles and emerging hatchlings:

(1) Sand fencing erected seaward of the peak of the primary dune or protective storm berm shall be erected at angles of at least 45 degrees to the shoreline, facing the predominate wind direction. Individual fence sections should not exceed 25 feet in length spaced parallel to each other at least nine feet apart. If sand fence sections are erected in segments ten feet in length or less, parallel to each other, they may be spaced no less than seven feet apart. Such sand fencing shall be installed landward of the mean high water mark to avoid damage by wave action. No fencing may be installed that unreasonably restricts public use of hard sand beach areas.

(2) Sand fencing erected within 150 feet landward of the peak of the primary dune or protective storm berm shall be erected in a continuous line parallel to the shoreline, with no breaks or openings allowed in the fencing, except for beach access points. There must be a minimum of 20 feet maintained between the closest point of fencing constructed landward and seaward of the peak of the primary dune or protective storm berm.

(3) In the absence of a primary dune or storm berm within an area of privately-owned property reasonably appropriate for dune recreation, the building inspector may establish the appropriate location for sand fence erection.

(4) Continuous sand fencing erected landward of the peak of the primary dune or protective sand berm must be kept intact without gaps, or it shall be immediately removed or repaired. It shall be the responsibility of the building inspector to notify the owner of any derelict or nonconforming sand fencing, and to require immediate remedy.

(5) Sand fencing erected for the purpose of delineating beach access points is exempt from the provisions of this section. A permit for sand fencing must be procured prior to construction.

(Ord. No. 29, § 9.3, 8-17-1991; Ord. of 4-15-2000; Ord. of 4-16-2010)

Sec. 32-164. Home occupations.

(a) The use must be conducted entirely within the dwelling by a member of the immediate family residing on the premises. No persons outside of the immediate family members will assist or be employed. No more than 25 percent of the floor space within the dwelling may be used in connection with such occupation.

(b) No chemical equipment or product shall be used except those which are normally used for purely domestic or household purposes. No equipment or process shall be used in such home occupation which creates noise, noxious odors, glare, fumes or other nuisance or electrical or mechanical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family housing unit, or outside the housing unit if conducted in other than a single-family housing unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. No equipment or process shall be used which creates electromagnetic disturbances off the premises.

(c) No commodity or product display shall be visible from the exterior of the dwelling.

(d) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, including, without limitation, the displaying of any type of sign.

(e) The activity involved shall not noticeably detract from the outward residential character of the neighborhood.

(f) Pedestrian traffic, vehicle traffic, and any other activity associated with a home occupation shall not significantly disrupt the peace and tranquility of the residential neighborhood.

(g) Any equipment is to be stored inside an enclosed shelter, shed or garage. There shall be no outside storage.

(h) If, at any time there is any noncompliance with the provisions of this chapter relating to limited home occupations, then the zoning official will serve notice of violation and order to cease.

(i) A property owner proposing a home occupation must first file an application for such proposed use with the zoning official and affirm that he has read and understands the provisions of this article.

(Ord. No. 29, § 9.4, 8-17-1991)

Secs. 32-165--32-190. Reserved.

ARTICLE V.

SUPPLEMENTAL REGULATIONS

Sec. 32-191. Enforcement and interpretation.

Regulations for each district shall be enforced and interpreted according to the following rules.

(1) ~~(1)~~ *User by right*. All listed permitted uses are permitted by right (P) or ~~condition~~special standard ~~(CS)~~ in each zoning district according to the table of uses contained in section 32-126.

(2) *Minimum regulations.* Regulations set forth in this chapter shall be minimum regulations. If the requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.

(3) *Restrictive covenants and deed restrictions.* Unless restrictions established by covenants and deed restrictions running with the land are prohibited by the provisions of this chapter, nothing contained in this chapter shall be construed to render such covenants or restrictions inoperative.

(4) *Dimensional requirements and other regulations.*

a. *General building restrictions.* Construction on numbered single-family lots within the development shall be governed by the following general minimum requirements:

1. All buildings shall be constructed in such a manner as to comply with the North Carolina Coastal Area Management Act and all regulations propounded pursuant thereto and the Federal Emergency Management Act and all regulations propounded pursuant thereto.

2. The exterior of all approved buildings located within this subdivision shall have been completed within six months after construction shall have been commenced and failure to complete the exterior of such buildings within the six-month period shall operate as a forfeiture of the permit granted.

b. *Prohibited uses.* It is the intent and purpose of the village to create a residential and commercial community of the highest quality and, at the same time, endeavor to retain the natural, unspoiled beauty now existing on the island; and, to that end, the following restrictions shall apply:

1. No fuel tanks or storage receptacles shall be exposed to public view. Trash and garbage receptacles may be located at appropriate locations on any lot so long as they are appropriately enclosed or screened as to exclude their exposure to the public.

2. Each lot owner within the development shall maintain and preserve his property in a clean, orderly and attractive appearance. Upon the failure on the part of any such owner to adhere to such proper, clean, orderly and attractive maintenance of his property, and upon ten days' written notice, the village may file a suit against such owner for specific performance.

3. No open or exposed storage, including junk or abandoned items of personal property, shall be maintained on any property within the village; no trash or refuse, including leaves shall be burned in an open incinerator within the development except by special permit.

4. No animals, livestock or poultry of any kind shall be raised, bred, or kept within the village, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose, and are kept under control by the owner at all times.

5. In an effort to effectively control obnoxious insects and pests, the village reserves the right to enter upon any residential lot and use such measures as are generally recommended for effecting such controls.

6. The drilling of private wells for residential irrigation or potable water purposes where a public or private utility service is available is expressly prohibited.

c. *Regulations affecting construction.*

1. Prior to the initiation of any construction of any structure by any person, such person shall:

i. Obtain a building permit;

ii. Place marl on access driveway; and

iii. Erect snow fence and stabilize at limits of construction immediately after installation of pilings.

2. Each structure constructed shall meet each of the following criteria in addition to complying with all applicable state and local laws and regulations applicable thereto prior to the issuance by the building inspector of a certificate of compliance:

i. All inspections conducted and passed by the building inspector;

ii. All landscaping is complete and conforms to the preapproved plans and permit thereof;

iii. Water and sewer available;

iv. Minimum eight-inch by eight-inch pilings shall be required as supporting members for any structure;

v. The "contractor" shall provide an eight-foot-wide minimum driveway with a "trafficable surface". If marl surfaces or other loose material are used for the driveway, it shall all be edged with concrete, wood, brick or another approved material. A concrete apron, 16 feet wide at the street, tapering to the width of the driveway, is required. A pressure treated Pine or equivalent wood edging, a minimum of four inches by six inches, shall be used at all times to encase the required concrete apron; and

vi. Two guest parking spaces off the street;

- vii. Six feet deep by six feet wide at road by eight feet wide at drive all weather apron;

All exterior lights shall be baffled lights, low profile luminaries, permitted pole lighting, or approved freestanding baffled lighting and located more than 100 feet landward of the stable line of natural vegetation. New construction of commercial uses, and improvements to existing commercial uses shall install adequate lighting to promote safety measures, due to increased population and traffic in such areas, as determined by the village manager or building inspector. Provisions for such lighting shall be installed prior to issuance of a certificate of occupancy for the commercial structure. Floodlights, or other unshielded lights are strictly prohibited. All lighting must comply with chapter 10, article III, of this Code.

~~vii. viii.~~ All trash can receptacles must be animal-proofed and immediately accessible from the driveway;

~~viii. ix.~~ Beach walks four feet wide and no more than one foot above grade and must comply in all respects with section 28-34 of this Code;

~~ix. x.~~ All utility elements (HVAC, solar, etc.) screened to match house screening and colors and shall be located above the base flood elevation except that electric meter boxes may be located below base flood when such evacuation would require placing meter face more than six feet above grade;

~~x. xi.~~ No visible antennas;

- i. All new construction will install water saving devices in plumbing fixture units; and
- ii. A certificate of elevation shall be obtained and forwarded to the building inspector as soon as the governing structure is in place.

(Ord. No. 29, §§ 10.1--10.4, 8-17-1991; Ord. of 3-18-2000; Ord. No. 2006-001, 1-20-2006)

Secs. 32-192--32-220. Reserved.

ARTICLE VI.

NONCONFORMING USES*

* **Cross References:** Buildings and building regulations, ch. 6.

Sec. 32-221. Purpose and intent.

After August 17, 1991, pre-existing structures or lots of record and existing and lawful uses of any building or land which does not meet the minimum requirements of this chapter for the district in which they are located or which would be prohibited as new development in the district in which they are located shall be considered as nonconforming. It is the intent of this chapter to permit these nonconforming uses to continue until they are removed, discontinued, or destroyed, but not to encourage such continued use, and to prohibit the expansion of any nonconformance.

(1) Substandard lots of record and structures. Any lot of record or structure existing at the time of adoption of this chapter, which does not meet one or more of the minimum requirements of this chapter for the district in which it is located, 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 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 area and width for the district in which located.

b. Lot not meeting minimum lot size requirements. Except as set forth in this chapter, in any district in which single-family dwellings are permitted, any lot or record existing at the time of the adoption of this chapter which has dimensions which are less than required by this chapter may be used as a building site for a single-family dwelling providing the lot area and width are not less than 80 percent of the requirements in the district. If the lot is smaller or narrower, a variance may be requested of the [planning](#) board ~~of adjustment~~.

c. Yard requirements modified. Except as set forth in subsection (1)a of this section, where a lot has width or depth less than that required in the district in which it is located, the zoning official shall be authorized to reduce the yard requirements for such lot by not more than 20 percent.

Additional or other forms of yard modification may be permitted with a variance granted by the [planning](#) board ~~of adjustment~~.

d. Enlargement of nonconforming structures. Any building which is nonconforming solely because of its encroachment in a required yard area may be extended in any lawful manner that does not further encroach in that yard.

(2) Nonconforming uses of buildings. The nonconforming use of a building may be extended throughout the building provided no structural alterations, except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building, are made therein but no such use shall be extended to occupy any land outside such building. If the nonconforming use of such building is discontinued for a continuous period exceeding 180 days, every future use of such premises shall be in conformity with the provisions of this chapter; provided that this provision shall not apply to any nonconforming commercial or industrial use which normally operates less than 90 calendar days in any given calendar year. The nonconforming use which normally operates less than 90 calendar days in any given year (i.e., seasonal operation) shall not be resumed after 365 days have passed without operation. This provision shall not prevent the restoration of a

nonconforming building, or a building used for nonconforming use which has been destroyed to the extent of not more than 50 percent of its replacement value, but only if such building is restored within one year of the date of its destruction.

(3) Nonconforming uses of land. The nonconforming use of land shall not be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this chapter. If any nonconforming use of land, other than for the location of a mobile home or mobile office is discontinued for a continuous period exceeding 120 days, any future use of land shall be in conformity with the provisions of this chapter. If the nonconforming use of land for location of a mobile home or mobile office is discontinued, either by destruction of the mobile home or by removal thereof, any further use of land shall be in conformity with the provisions of this chapter except as provided in subsection (1)d. of this section.

(Ord. No. 29, §§ 11.1--11.3, 8-17-1991)

Secs. 32-222--32-250. Reserved.

ARTICLE VII.

~~CONDITIONAL~~SPECIAL USES

Sec. 32-251. Purpose.

The development and execution of this chapter is based on the division of the village into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the ~~district where~~district where permitted, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain ~~conditions~~standards and with proper controls, in such a manner as to minimize any adverse effects. In order to ensure that these uses, in ~~their proposed~~their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a ~~conditional~~special use permit as provided in this article.

(Ord. No. 29, § 12.1, 8-17-1991)

Sec. 32-252. Application and fees.

Applications for ~~conditional~~special use permits, signed by the applicant, shall be addressed to the planning board. A fee in an amount currently in effect by action of the village council will be paid at the time of application. Each application shall contain or be accompanied by such legal description maps, plans, and other information so as to completely describe the proposed use and existing conditions.

(1) *Structures.* Location of all structures within 50 feet of the property, location and depth, if known, of any existing utility lines in the property or along any adjacent street.

(2) *Other requirements.*

a. Location of property boundaries, location of any easements for utility lines or passage which cross or occupy any portion of the property for proposed lines;

b. Detailed construction plans shall be submitted prior to issuance of a building permit;

c. The applicant shall ~~provide to the zoning official~~submit with its application a list of names and addresses of all ~~adjacent~~abutting property owners along with one set of envelopes stamped and with typed addresses to each person on the list. In the absence of evidence to the contrary, the applicant may rely on the county tax listing to determine owners of abutting property. These addressed envelopes and the list ~~shall be submitted at least eight work days prior to the public hearing. The zoning official shall then mail a copy of the legal notice to each adjacent property owner. A second set of identically prepared envelopes shall~~must be submitted to the zoning official ~~if the planning board denies the request and the applicant wishes to appeal to the board of adjustment, otherwise a second set is not required before the meeting of the board of adjustment. The second set shall be submitted at least eight work days prior to the meeting at which the board of adjustment is to review the request;~~as part of an application prior to scheduling a public hearing.

d. A site development plan as set forth in section 32-128 of this chapter shall be provided with each application.

(Ord. No. 29, § 12.2, 8-17-1991)

Sec. 32-253. Procedures for ~~reviewing~~determining special use permit applications.

The ~~conditional~~special uses, as specified in the various districts may be ~~established~~permitted only after ~~review of the application~~approval by the planning board ~~and approval by the board of adjustment following a public evidentiary hearing~~. The planning board shall ~~consider the application at its next meeting held at least 30 days after its receipt and shall within the following 45 days recommend to the board of adjustment the approval, modification or denial of the conditional use permit. In its recommendation to the board of adjustment, the planning board shall express its view with regard to the following criteria:~~follow the quasi-judicial procedures set forth in section 32-102(c) when scheduling and hearing an application for a special use permit.

~~(1) The use requested is listed among the conditional uses in the district for which application is made; or is similar in character to those listed in that district;~~

~~(2) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;~~

~~(3) The requested use is desirable to the public convenience or welfare;~~

~~(4) Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided; and that adequate measures have been or will be taken to provide ingress or egress so designed as to minimize the traffic congestion in the public streets; and~~

~~(5) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.~~

~~Within 36 days of receipt of the recommendation of the planning board, the board of adjustment shall hold a public evidentiary hearing on the application for a conditional use permit. The board of adjustment shall cause notice of the hearing to be published once a week for two successive weeks commencing not less than ten days and not more than 25 days before the date fixed for the hearing. Following the hearing, the board of adjustment shall approve the application, deny it, or approve it subject to such conditions as the board of adjustment may find appropriate and necessary to minimize any adverse effects of the conditional use. The permit issued shall specify the condition use or uses approved.~~

(Ord. No. 29, § 12.3, 8-17-1991)

Sec. 32-254. General provisions concerning conditional special use permits.

(a) *Compliance with other codes.* Granting of a conditional special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

(b) *Revocation.* In any case where the conditions of a conditional special use permit have not been or are not being complied with, the zoning officer/official shall give the permittee notice in writing that the conditions of the conditional special use permit have been violated, specifying the manner in which such conditions have been violated and ordering compliance therewith within ten days of the date that such notice shall be mailed to the permittee and the landowner if not the permittee at the address set forth on ~~his application therefor or the date on which the application is personally delivered to the permittee, whichever shall first occur~~ the original special use permit application or such other address as the zoning official has on file. If, at the end of such ten-day period, ~~that~~ the conditions of the permit have not been met by the permittee, the zoning officer/official shall give to the permittee written notice of his intent to seek revocation of the conditional special use permit. Such notice shall be in writing and shall specify the conditions of the permit which have been violated by the permittee and shall specify ~~the~~ a time and place ~~of the next meeting of the planning board, at which time the board shall review evidence presented by the zoning officer with regard to the alleged violation and allow the holder of the permit to make a statement. The planning board may recommend to the board of adjustment that it consider revocation of the conditional use permit. The board of adjustment shall hold~~ for a public evidentiary hearing before the planning board to consider ~~such a recommendation. The board of adjustment shall cause notice of the hearing to be published once a week for two successive weeks commencing not less than ten days and not more than 25 days before the date fixed for the hearing~~ the revocation request. Such revocation hearing shall follow all quasi-judicial procedures applicable to an approval as set forth in section 32-102(c). Following the hearing, the planning board ~~of adjustment~~ shall ~~therefore~~ revoke, modify, or leave intact the original special use permit according to its findings. Such permit shall be revoked only if the planning board finds that ~~a condition or conditions of specific standards set by~~ the permit have been violated and that such ~~condition or conditions~~ standards are and remain ~~a material condition or conditions~~ to the permit and that such violation adversely affects the surrounding or adjacent zoning districts. The conditional special use permit may be modified as the planning board shall, in its discretion, deem to be appropriate if the planning board shall find that ~~conditions~~ specific standards of the permit have been violated but that such violated ~~condition~~ standard has, due to a change in circumstances, become ~~a condition which is~~ not material or that the violated ~~condition~~ standard does not adversely affect the surrounding or adjacent zoning district.

(c) *Expiration.* In a case where a conditional special use permit has not been exercised within the time limit set by the planning board ~~of adjustment, which period may not be shorter than twelve months~~, or within ~~six~~ twelve months if no specific time limit has been set, then without further action, the permit shall be null and void. Exercised, as set forth in this section, shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions set forth in the permit.

(d) *Duration of conditional special use.* Any conditions imposed on a conditional special use authorized and exercised shall be perpetually binding upon the property unless expressly

limited by the ~~conditional~~special use permit or subsequently changed or amended by the planning board ~~of adjustment~~ after a public hearing.

(e) *Conditions and guarantees.* Prior to the granting of any ~~conditional~~special use the planning board ~~of adjustment~~ may stipulate such conditions and restrictions upon the establishment, location, or construction, maintenance, and operation of the ~~conditional~~special use as it deems necessary for the protection of the public and to secure compliance with the standards and requirement specified in this chapter. In order for such conditions to be effective the permittee must consent to the same in writing. In all cases in which ~~conditional~~special uses are granted, the planning board ~~of adjustment~~ shall require such evidence and guarantees as it may deem necessary to ensure that the conditions stipulated in connection therewith are being and will be complied with.

(1) Such conditions may include a time limitation.

(2) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six feet before the use requested is initiated."

(3) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m."

~~(f) No vote greater than a majority vote shall be required by the village board of adjustment for a conditional use permit, to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from~~

~~voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.~~

(Ord. No. 29, § 12.4, 8-17-1991; Ord. No. 2006-1010, 10-26-2006)

Sec. 32-255. Commercial filming permits.

(a) *Commercial filming activity allowed.* Notwithstanding any other provisions in the village code of ordinances, pursuant to this section, commercial filming projects shall be allowed in all zoning districts within the village limits.

(b) *Requirements.* Any proposed commercial filming activity must comply with and be permitted pursuant to the village commercial filming guidelines, as may be modified from time to time by the village council, a copy of which may be obtained at village hall.

(c) *Penalties.* Commencing commercial filming activities without a permit may result in fine of \$5,000.00, which must be paid to the village at village hall within ten days of receiving a citation for such unpermitted filming activity. Failure to comply with the commercial filming permit and/or the village commercial filming guidelines may result in a fine of \$5,000.00, which must be paid to the village at village hall within ten days of receiving a citation for such failures, or suspension, modification, or termination of the commercial filming permit. Each continuing day during which a violation occurs shall be deemed a separate offense. Violations under this section shall not be punishable as a misdemeanor under G.S. 14-4.

Ord. No. 29, § 12.5, 8-17-1991; Ord. No. 2006-1011, 10-26-2006; Ord. No. 2012-0301, 3-16-2012)

Cross-reference—See Appendix C of the Code of Ordinances for Commercial Filming Guidelines, Filming Permit Application and Fee Schedule.

Secs. 32-256--32-290. Reserved.

ARTICLE VIII.

PLANNED UNIT DEVELOPMENT

Sec. 32-291. Purpose and intent.

(a) The purpose and intent of these planned unit development regulations is to promote innovative design in development by providing flexibility in regard to permitted uses and bulk regulations. These regulations are designed to promote the development of attractive, desirable communities of place, where residents and visitors can work and live in a development pattern that integrates residential and nonresidential uses in a design that is accessible to pedestrians and encourages the use of alternative modes of transportation and shared parking and offers greater conveniences to the residents of the village.

(b) It is the intent and policy of the village to encourage planned unit developments because of the extensive planning that is required prior to development. Planned unit developments allow the village to plan for large areas and to manage the impacts of growth on the provision of government services and infrastructure.

(c) It is the intent of the village to encourage the use of this section in conjunction with the other elements of this chapter in order to encourage the development of new communities.

(d) It is the intent of the village to provide flexibility in design in order to achieve, to the greatest possible degree, land development which is responsive to the natural and environmental assets and liabilities of any given site. Environmentally sensitive features should be protected and development concentrated in more suitable or less sensitive areas in order to preserve the island's unique natural resources. Development should be located and undertaken in a manner that will be the least disruptive to the natural functions of the environmentally sensitive lands. The maintenance and restoration of trees and other elements of the environmentally sensitive lands is an integral part of any planned unit development activities.

(Ord. No. 29, § 13.1, 8-17-1991)

Sec. 32-292. Definitions.

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

Commercial use means the occupancy, use, or intended use of land or structures or any portion thereof for the transaction of business, whether wholesale or retail, or the rendering or receiving of services. Warehousing, if directly related to on-site commercial activity, shall be considered to be commercial use.

Master plan means a development plan depicting an entire proposed planned unit development, including proposed phases, which is submitted for council approval in accordance with this chapter.

Mixed-use development means a project which integrates a variety of land uses including but not limited to residential, commercial, office, retail, public, or entertainment, in a compact urban form.

Mixed-use structure means a structure that will contain both commercial, on at least one floor, and residential within the same structure.

Open space means any portion of a parcel or area of land or water which is open and primarily undisturbed by structures, including areas maintained in a natural and undisturbed character. The only aboveground structures which are allowed

within an open space are walkways and structures related thereto, such as benches, all of which are intended to accommodate casual, pedestrian use, and minor utility structures for pumps, wells and similar purposes.

Recreational use means the occupancy, use, or intended use of land or structures or any portion thereof by persons for relaxation, amusement, play or the like.

Residential unit means an enclosure of one or more rooms providing permanent provisions for living, sleeping, eating, cooking, and sanitation designed and/or constructed for permanent occupancy by one family. Accessory uses, including crofters, to the extent it is under the same ownership and on the same lot as the principle residential unit shall be deemed a part of the principle use.

Residential use means the buildings for residence such as attached or detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc.

Single-family dwelling, attached, means a structure containing more than one single-family dwelling unit in which the units are physically attached and each has its own separate exterior entranceway and a separately owned lot.

Single-family dwelling, detached, means a structure containing one dwelling unit that is freestanding.

Site specific plan means a development plan depicting a specific phase of development of an approved planned unit development master plan. The site specific plan contains more detailed information than the master plan, as this plan is submitted to village staff for final review, approval, and recordation of a specific phase. Site specific plans shall be submitted for preliminary as well as final approval in accordance with the two step site specific approval process defined in section 32-305 of this chapter.

(Ord. No. 29, § 13.2, 8-17-1991; Ord. No 2000-21, 9-16-2000; Ord. No. 2005-012, 7-15-2005)

Cross References: Definitions generally, § 1-2.

Sec. 32-293. Districts in which allowed.

Planned unit developments are permissible in all zoning districts, provided that an application for the planned unit development is submitted, reviewed, and approved in accordance with this chapter. The planned unit development district is an overlay district which is applied only at the request of the applicant.

(Ord. No. 29, § 13.3, 8-17-1991)

Sec. 32-294. Minimum area of development.

The parcel proposed for development as a planned unit development shall be a minimum of ten contiguous acres.

(Ord. No. 29, § 13.4, 8-17-1991)

Sec. 32-295. Design standards.

Planned unit developments are exempt from this chapter and chapter 26, subdivisions, with the exception of the following:

(1) *Wetlands*. Ecologically sensitive lands, such as marsh, Carolina Bays, pocosins and swamps, when in the ownership of the owner/applicant, are to be preserved whenever possible for the public interest. For such lands, as long as such areas are left undisturbed, they shall be included in the gross density.

(2) *Maximum ground coverage*.

a. Maximum ground coverage of sites developed as residential structures and accessory uses shall be 30 percent of the gross site area for these uses.

b. Maximum ground coverage of sites developed as nonresidential shall be 50 percent of the site specific area for these uses.

c. Applicant may exceed restrictions if applicant can effectively demonstrate, through an innovative engineered design, that the protection provided by the design would be equal to or

exceed the protection by the limitations of 30 and 50 percent as specified in subsections (2)a and (2)b of this section.

(3) *Streets/internal trafficways.* A basic characteristic of a planned unit development is that the internal trafficways or streets, whether public or private, do not follow fixed linear geometric lines as do most streets, but instead are curvilinear and of meandering character. This is intended to provide for the further protection of trees, landscape specimens, and other environmentally sensitive concerns by building around these areas and for deliberate slower paced traffic movements and making generous use of features that promote lower vehicular speeds. Creative design of trafficways is encouraged. All planned unit developments must adhere to chapter 26, subdivisions, article III, design standards, of this Code. Prior to the approval of a final plat, the developer shall have installed all required improvements, or guaranteed their installation in accordance with chapter 26, subdivisions, article IV, final approval, of this Code.

(4) *Setbacks.* Minimum setbacks and distances between structures shall be as follows: minimum distance between internal structures shall be as required by the North Carolina Department of Insurance, and a minimum setback of 25 feet shall be required from any peripheral property line of the planned unit development except, where the peripheral property line is the boundary between the planned unit development and the State of North Carolina Maritime Forest Preserve, the

required minimum setback shall be 20 feet. A minimum of ten feet shall be required for all front property lines.

(5) *Utilities.* Each development shall be capable of service with a water system and a sewage disposal system meeting standards and requirements of the state. When a development is within 1,000 feet of a water or sewer system, and the system has the capacity to provide the necessary water and sewer, the developer shall connect to such system and shall design a water distribution system for the subdivision meeting any requirements of state and village ordinances. Except as otherwise allowed by this chapter, all utilities and easements for each planned unit development must be provided in accordance with subsection 26-124(f)(4). Notwithstanding that provision, or any other provision of this section, and with the approval of the village manager, water and sewer line installations may be located under the paved surfaces of public roads if such construction is reasonably necessary to preserve natural features of the land, including trees. All utilities shall be installed underground.

(Ord. No. 29, § 13.5, 8-17-1991; Ord. No. 2000-21, § 1, 9-16-2000; Ord. No.

ZO-01-04, 6-18-2004) **Sec. 32-296. Allowable uses.**

(a) Except as provided in subsection (c) of this section, notwithstanding the permitted or ~~conditional~~ special uses specified as allowed in the underlying zoning district, a planned unit development may contain any or all of the following uses:

(1) If the parcel proposed for development as a planned unit development is less than 20 acres, only residential use of any type permitted by article III of this chapter and associated recreational uses, will be allowed.

(2) If the parcel proposed for development as a planned unit development is equal to or greater than 20 acres, any use not otherwise prohibited in the village may be allowed, provided that no more than ten percent of the gross acreage of the planned unit development shall be used for commercial use.

(b) All uses that are set out in an approved master land use plan shall thereafter be treated as permitted uses within the planned unit development.

(c) A minimum of 70 percent of the total number of allowable residential units in an approved planned unit development shall be single-family. Thirty percent may be developed as residential uses other than single-family. Notwithstanding this requirement, once a master plan is approved in accordance with this provision, the number of single-family residential units approved may be reduced, as long as the number of non-single-family residential uses is not increased, notwithstanding the fact that such decrease in single-family residential units may result in a build-out density whereby more than 30 percent of the total residential units are other than single-family units.

(d) Any allowed use may be combined with any other use in a planned unit development or individual building, at the discretion of the village council.

(Ord. No. 29, § 13.6, 8-17-1991; Ord. No. 2000-21, § 1, 9-16-2000)

Sec. 32-297. Recreational and open space requirements.

(a) Each planned unit development shall provide at least 20 percent of the parcel proposed for development in open space. Of the total required open space, ten percent shall be in uses other than golf course. Such required open space may be developed and incorporated into a central amenities package and shall be contiguous except where otherwise deemed appropriate.

(b) Upon approval by the village council as part of its approval of the master plan, any or all of the required open space reserved under subsection (a) of this section may be dedicated to the village for recreational or open space purposes.

(c) Any required open space which is not dedicated to the village shall be maintained by a homeowners' or property owners' association or other nonprofit organization with appropriate restrictions recorded which restrict in perpetuity the use of such land and facilities to open space and recreational uses, as shown on the master plan.

(Ord. No. 29, § 13.7, 8-17-1991)

Sec. 32-298. Residential density.

Planned unit developments shall have residential densities no greater than the maximum density allowed for the predominate zoning classification, by acreage, based on the following formula:

$(\text{Maximum single-family density} \times 70\%) + (\text{Maximum Multifamily density} \times 30\%) \times 50\% =$
Maximum planned Unit development residential density (in units/acre)

(Ord. No. 29, § 13.8, 8-17-1991)

Sec. 32-299. Density bonuses.

In approving an application for planned unit development, if the village council finds that an increase in density will not have an adverse impact on the public health, safety, and welfare of the village and that the development meets the purpose and intent of this chapter, the village council, at their discretion, may grant a density bonus of up to 15 percent of permitted gross density calculated according to the following:

- (1) Construction of on-site bike and/or fitness trails or facilities: not more than five percent;
- (2) Construction of park, open space or greenway facilities that exceed minimum village standards: not more than five percent.

percent;

(3) Creative use of stormwater impoundments (ponds) for recreation, views over water, incorporation in parks or for waterfront promenades: not more than five percent;

(4) Development following the standards of traditional urban development: not more than ten percent; and

(5) Donation of school or other public facility site: not more than ten percent.

(Ord. No. 29, § 13.9, 8-17-1991)

Sec. 32-300. Development standards and improvement requirements.

(a) The village may approve as a part of the planned unit development process, notwithstanding any requirements of the underlying zoning ordinance, the lot dimensions, setbacks, parking, interior landscaping, and buffers within the planned unit development.

(b) Planned unit developments containing both residential and nonresidential uses shall be designed, located and oriented on the site so that the nonresidential uses are directly accessible to residents of the planned unit development. For the purposes of this section, directly accessible shall mean pedestrian and vehicular access by way of improved sidewalks or paths and streets that do not involve leaving the planned unit development or using a major thoroughfare. Directly accessible does not necessarily mean that nonresidential uses need to be located in a particular location but that the siting of such uses considers the accessibility of the residential areas of the planned unit development to the nonresidential use.

(Ord. No. 29, § 13.10, 8-17-1991)

Sec. 32-301. Phasing of development.

(a) Construction of the nonresidential portions of the planned unit development, phase or section, shall be designed and phased to ensure that the impacts of the nonresidential development upon the surrounding community and properties will not be detrimental to further residential development of the community and adjacent properties, or the use and enjoyment of adjacent residential properties. Impact of the nonresidential portion includes but is not limited to the visual impact and perception of the nonresidential development. Construction of the commercial development which is part of the planned unit development shall commence no earlier than such time as building permits have been issued for 15 percent of the dwellings in the planned unit development, unless another schedule which fulfills the intent of this section has been approved by the village council as part of the master plan approval.

(b) All open space and recreational amenities shall be dedicated and completed before certificates of occupancy may be issued for more than 50 percent of the dwellings in the planned unit development or, if the approved master plan divides the planned development into phases, in that phase of the planned unit development of which the amenity is a part.

(Ord. No. 29, § 13.11, 8-17-1991)

Sec. 32-302. Elements of the planned unit development.

(a) Applications for planned unit development approval shall contain three elements for approval:

(1) A master plan of the proposed planned unit development;

(2) A site specific plan for each development phase within the planned unit development; and

(3) A document package as required under section 32-303.

(b) The planned unit development shall require the submission of a master plan for review by the technical review committee, planning board and final approval of the village council.

(c) Following approval of the master plan, the planned unit development plan shall require the submission, approval, and recordation of one or more final site specific plats. The final planned unit development plat shall contain the language, "approved as a planned unit development plat." Site specific final plat approval is contingent on review by appropriate village authorities and approval by the village manager or his designee.

(Ord. No. 29, § 13.12, 8-17-1991)

Sec. 32-303. Special requirements.

Before site specific plat approval is issued, appropriate documents, deed restrictions, or similar covenants guaranteeing adequate maintenance and continued operation of all assured open space and other private service facilities, shall be filed with the village manager for approval and then be properly recorded.

(Ord. No. 29, § 13.13, 8-17-1991)

Sec. 32-304. Master plan application approval.

(a) *Preapplication conference.*

(1) A preapplication conference between the applicant and the appropriate village staff shall occur prior to any presentation to the planning board. The request for a conference must be submitted by the applicant. The primary purpose of this conference is to provide assistance and guidance to the applicant for the swift and least interruptible review of the

proposed planned unit development. To ensure an equal understanding, this conference will provide a mutual exchange of basic information that is needed to facilitate and clarify the requested review process for all planned unit developments.

(2) Once the preapplication conference is complete, the applicant will prepare a master plan of the entire planned unit development. The applicant will complete the master plan compliance sheet as a requirement of the application.

(b) *Submission.* Submission and review procedures for master plan approval shall be in accordance with chapter 26, article II, procedures for plat approval, notwithstanding the provisions for information required on preliminary plats. The master plan shall contain all information as set forth in subsection (c) of this section.

(c) *Master plan plat requirements.* The master plan will contain and label the following elements:

- (1) Tax parcel number;
- (0) Existing zoning;
- (1) Major thoroughfares;
- (2) Recreational areas;
- (3) Golf courses/other recreational amenities;
- (4) Lakes (natural or manmade);
- (5) Buffer strips;
- (2) Single-family residential area;
- (6) Multifamily residential area;
- (7) Total acreage of commercial area;
- (8) Total acreage of the planned unit development;
- (9) Total acreage of the residential use;
- (10) Total acreage of the recreational use;
- (11) Total acreage of the open space;
- (12) Total number of commercial units;
- (13) Total number of residential units by type;
- (14) Total density per acre;
- (15) North arrow;
- (16) Infrastructure layout;
- (17) Total impervious coverage for residential development;
- (18) Total impervious coverage for non-residential and commercial area;
- (19) Walking paths/bike trails;
- (20) Scale, date, and legal description of site;
- (21) ~~Adjacent~~Abutting property owners;
- (22) Phases of development (if recording in phases);
- (23) Ten copies of the master plan (for office use only); and

(24) The village staff shall have the authority to require other information as necessary to determine compliance with this chapter, or other local, state, or federal regulations.

(d) *Authority to approve.* The council shall have the authority to approve the planned unit development master plan application following a determination that the plan meets the requirements of this article.

(Ord. No. 29, § 13.14, 8-17-1991)

Sec. 32-305. Site specific plan approval.

(a) If the planned unit development is of the size that it must be completed in phases, it is the responsibility of the applicant or owner to present site specific plans of each phase, prior to the development of that phase, to the village manager or his designee. The applicant or agent will be presented with a planned unit development compliance sheet to assist with the completing of the site specific plan in a more accurate and efficient manner. The site specific plans are in more detail and must contain all information as required for preliminary plats in chapter 26, article VII, of this code.

(b) If the proposed planned unit development is to be completed in one initial phase, the applicant or owner may submit a

master plan that contains all of the elements of the site specific plan.

(c) Site specific approval is a two-step process. The preliminary site specific plat must have village approval prior to installation of the required improvements. Following the installation of the required improvements, a final site specific plat shall be approved by the village manager. A mylar with the appropriate information will be required for signatures of the village manager or his designee so that the applicant or owner can record the site specific plan. Submission of the preliminary site specific plans and final site specific plans must occur no later than 14 days prior to the regularly scheduled technical review committee meeting. Filing fees as set forth by the village council in their approved fee schedule, which shall be modified from time to time, shall be payable to the village upon submission of such preliminary and final plans. Necessary revisions of plans resulting from technical review committee comments must be received 14 days prior to the subsequent technical review committee meeting to be considered at that meeting. If the number of submittals are such that additional staff time is necessary to review the documents, then at the discretion of the village manager or his designee those submittals not being reviewed will be continued to the agenda for the next regularly scheduled meeting of the technical review committee, occurring no more than 45 days from the previous technical review committee.

(d) Approval of any site specific plan shall be valid for a period of 24 months from and after the date of approval thereof. Within 24 months of the date of approval of any site specific plan, the developer shall install all required improvements or make any provisions for guarantee of the installation thereof pursuant to section 26-201 of this code and thereafter may submit a final site specific plan for approval by the manager or his designee. Failure of the developer to install improvements or provide and post the necessary guarantees in lieu thereof and to provide to the manager a final plat for approval or to record such approved final plat within such 24-month period shall void the approval of the site specific plan. Any subsequent proposed development of such property shall be approved only upon conformity with the terms and conditions of this chapter.

(Ord. No. 29, § 13.15, 8-17-1991; Ord. No. 2001-17, 8-25-2001)

Sec. 32-306. Amendments to master plan and site specific plans.

Any and all amendments to the master plan and/or site specific plans for the planned unit development shall be subject to the following review procedures:

(1) Village manager approval is required for the following:

a. Changes which result in a decrease in assigned density for a specific parcel, either residential or nonresidential.

b. Change in land use designation from multifamily to single-family or a change from any other use to open space/passive recreation.

c. Minor changes in major infrastructure features (i.e., roads/access, sewer, water, storm drainage) of the master plan area which are clearly beneficial to the occupants of the master plan area.

d. Minor changes in order to correct typographical errors or other revisions not affecting compliance with any of the substantive features of the planned unit development.

(2) The village council approval is required for the following:

a. Significant changes in major infrastructure features (i.e., roads/access, sewer, water, storm drainage) of the master plan.

b. Change in land use designation to increase density for master plan or site specific plan.

c. Any other significant change to the master plan or site specific plan as determined by the village manager.

(Ord. No. 29, § 13.16, 8-17-1991)

Sec. 32-307. Enforcement provisions.

(a) Any person violating any section of this chapter shall be guilty of a class 3 misdemeanor and punishable by a fine not to exceed \$50.00 or imprisonment not to exceed 20 days. Each day that a violation continues shall be considered a separate and distinct offense.

(b) In addition to and not in lieu of any criminal remedies set forth in subsection (a) of this section, the village may apply to

any court of competent jurisdiction for a temporary restraining order, preliminary injunction and permanent, mandatory or prohibitory injunction preventing the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any land or structures in violation hereof, including order of abatement directing that buildings or other structures located on any property subject hereto be closed, demolished or removed, if necessary, to come into compliance herewith.

(c) The village's remedies for violations hereof as set forth in this section shall be cumulative.

(Ord. No. 29, § 13.17, 8-17-1991)

Sec. 32-308. Procedures for establishing a moratorium.

(a) The village may adopt temporary moratoria on any village development approval required by law. The duration of any moratorium shall be reasonable in light of specific conditions that warrant imposition of the moratorium and may not exceed

the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with the duration of 61 days or longer, is subject to the notice and hearing requirements of G.S. 160A-364 [153A-323] D-601. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160A-417 [153A-357] D-1108 is outstanding, to any project for which a ~~conditional~~ special use permit application ~~or special use application~~ has been accepted as complete, to development set forth in a site-specific ~~or phased development~~ vesting plan approved pursuant to G.S. 160A-385.1 [153A-344.1], ~~to D-108.1, to~~ development for which substantial expenditures have already been made in ~~good faith~~ good-faith reliance on a prior valid ~~administrative or quasi-judicial permit or development~~ approval, or to preliminary or final subdivision plats that have been accepted for review by the village prior to the call for a public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-108(b) applies when permit processing resumes.

(b) Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

(1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternatives to a moratorium, were considered by the village council and why those alternative courses of action were not deemed adequate.

(2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to the imposition of the moratorium.

(3) An express date of termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the village during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

(c) No moratorium may be subsequently renewed or extended for any additional period unless the village shall have taken all reasonable and feasible steps proposed to be taken by the village in its ordinance establishing the moratorium to address the problems or conditions leading to the imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in (b)(1) through (b)(4) of this section, including what new facts or conditions warrant the extension.

(d) Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the village shall have the burden of showing compliance with the procedural requirements of this section.

(Ord. No. 2006-1012, 10-26-2006)

Secs. 32-309--32-330. Reserved.

ARTICLE IX.

SIGNS

DIVISION 1.

GENERALLY

Sec. 32-331. Title.

This article shall be known and may be cited as the “Sign Ordinance of the Village of Bald Head Island, North Carolina,” and may be referred to as the sign ordinance.

(Ord. No. 60A, art. I, § 1, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-332. Purpose.

The purpose of this article is to establish limitations on signs to ensure that they are appropriate to the neighborhood, building, or use to which they are appurtenant, and are adequate, but not excessive, for their intended purpose as a means of communication; to maintain and enhance the aesthetic environment of the island; to improve pedestrian and other traffic safety; to minimize the possible adverse affect of signs on nearby public and private property; and to enable the fair and consistent enforcement of this article.

(Ord. No. 60A, art. I, § 2, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-333. Authority.

This article is hereby adopted under the authority and provisions of the G.S. 160A-~~381~~[174](#) and [160D-702](#) et seq.

(Ord. No. 60A, art. I, § 3, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-334. Jurisdiction.

This article govern each and every sign erected within the corporate limits of the village as indicated on the official corporate boundary map of Bald Head Island, North Carolina.

(Ord. No. 60A, art. I, § 4, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-335. Usage of words and terms.

For the purpose of interpreting this article, certain words or terms are herein defined. Except as defined in this article, all other words used in this article shall have their everyday dictionary definition.

(Ord. No. 60A, art. II, § 1, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-336. Definitions.

For the purposes of this article, the following words and phrases shall be defined as specified in this section:

Banner sign means a sign made of fabric or any nonrigid material with no enclosing framework.

Bollard means a wooden post constructed and erected for the purposes of location identification of buildings and building sites. All bollards shall not exceed 4 feet in height.

Bollard cap means a cover or top for a bollard constructed for the purposes of advertising the sale, rental, or lease of property. All bollard caps must be located on a bollard constructed and erected pursuant to this section.

Building-mounted sign means a sign attached to, painted on, inscribed on or deriving its major support from a building, including a wall sign, a projecting sign or an awning sign.

Bulletin board means a board not greater in size than 5' x 7' used to announce meetings or programs to be held on the premises of a church, village property, library, museum, community center, Bald Head Island Club, or similar noncommercial places of public assembly. A bulletin board shall not contain any commercial advertising or shall be treated as a sign.

Changeable copy means copy that is or can be changed manually in the field or through mechanical means (e.g., reader boards w/changeable letters).

Construction sign means a sign placed at the construction site identifying or announcing the project or the name of the architect, engineer, or contractor involved in the development of the project.

Copy means any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

Decorative flag means a piece of fabric bearing a distinctive design which is purely ornamental in purpose. *Direction sign* means a sign directing traffic toward a specific destination remote to the location of the sign. *Directory sign* means a subsidiary sign listing the names, uses, and/or location of various residential developments.

Door sign means a sign attached to the outward facing side of an exterior door or a sign that is on the interior side of a door, but which is visible from the exterior of the building because the door or part of the door is made of glass or another transparent material.

Double-faced sign means a sign having two sides bearing similar information on both sides.

Freestanding sign means a sign, supported by one or more columns, uprights or braces, in or upon the ground, but not attached to any building. A sign attached to a flat surface not a part of the building, such as a fence or wall, shall be considered a freestanding sign.

Golf course means a course with nine or more holes for playing golf, including any accessory driving range, clubhouse, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include miniature golf courses, nor shall it include driving ranges, which are not accessory to a golf course.

Government means any agency, office bureau, or corporation licensed by any duly authorized authority of the United States, the state, the county, any regional government, or the village.

Ground mounted sign means a freestanding sign which extends from the ground or which has a support which places the bottom thereof less than two feet from the ground.

Holiday decorations means displays erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent in nature and which contain no advertising material.

Illegal sign means any sign erected or maintained in violation of this article or erected, altered, removed, or replaced in violation of this article, or any amendments hereto.

Instructional sign, on-premises, means a sign designed to guide golf cart and/or pedestrian traffic by using such terms as entrance, exit, one-way, or similar directional instruction, but not including any

advertising message. The name or logo of the business or use to which the sign is giving direction may not be included on the sign.

Logo means a business trademark or symbol.

Lot means a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal parcel for purposes of transfer of title.

Multifamily development means two or more multifamily dwellings located on a single property.

Multifamily dwelling means a building containing three or more dwelling units, and where the building is designed to be or is occupied by three or more families living independently from each other.

Nonconforming sign means any sign that met all legal requirements when constructed but does not comply with this article or a subsequent amendment hereto.

Not-for-Profit Business/Tax Exempt Business means a tax exempt nonprofit organization under Section 501(c)(3) of the United States Internal Revenue Code (26 U.S.C. § 501(c)(3)).

Off-premises sign means a sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered at a location other than the premises on which the sign is erected.

On-premises sign means a sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered on the premises on which the sign is erected.

Parcel means a tract or plot of land.

Portable sign means any sign that is not permanently affixed to a building, structure, or the ground or that is not designed to be permanently affixed to a building, structure, or the ground.

Private road and street mean any road or street which is not publicly owned and/or maintained and is used for access by the occupants of the development and their guests.

Public street means a street consisting of a publicly dedicated right-of-way and a roadway maintained by the village.

Right of way means an area owned or maintained by the village, a public utility, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles and pedestrians, including roads, pedestrian walkways or utilities.

Sandwich board sign means a two-sided A-frame style sign that is self-supporting, with no moving parts or lights; displayed outside a for-profit or not-for-profit business, during business hours, to advertise the business, hours of operation, an event, a promotion, or for any similar purpose.

Sign means any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, structures, designs, trade names, or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, which are visible from any public street or adjacent property which by its nature attracts attention.

Sign height means the distance measured from the highest point of a sign, including any molding, trim, border, or frame from ground level at the base of the sign.

Temporary sign means a sign that can be used only for a designated period of time.

Traffic sign means a sign indicating federal, state, or municipal regulations for golf cart, vehicle, bicycle, and/or pedestrian movement, or a sign of similar content installed within a private right-of-way by the owner. A traffic sign within a private right-of-way may state "Private Road" but may not state "Owners and Guests Only", "Keep Out," or other access restrictions..

Village manager means the chief administrator of the village who is responsible to the council for administering all municipal affairs placed in his charge by them.

Wall sign means a building-mounted sign attached to, painted on, inscribed or deriving its major support from a wall, and which projects less than 12 inches from the wall.

(Ord. No. 60A, art. II, § 2, 11-13-1999; Ord. No. 2014-0603, 7-25-2014; Ord. No. 2015- 0402, passed 4-17-2015)

Cross References: Definitions generally, § 1-2.

Sec. 32-337. Word interpretations.

For the purpose of this article, certain words shall be interpreted as follows:

The term "lot" includes the word "plot" or "parcel" or "tract."

The term "shall" is always mandatory and not merely directory.

The term "structure" shall include the word "building."

The term "used for" shall include the meaning "designed for."

(Ord. No. 60A, art. III, § 1, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-338. Calculation of sign area.

Sign area shall be calculated as the area within a parallelogram, triangle, circle, semicircle or other regular geometric figure including all letters, figures, graphics or other elements of the sign, together with any material or framing that is an integral part of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The sign area is defined as the area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustrations, or ornamentations, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in the sign area. If the sign is located on a decorative fence or wall, when such fence or wall otherwise meets these or other ordinances or regulations and is clearly incidental to the display itself, the fence or wall shall not be included in the sign area.

(Ord. No. 60A, art. II, § 3, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-339. Violations.

Any of the following shall be classified as a violation of this article except as permitted or nonconforming and shall be subject to the enforcement remedies and penalties provided by this article and by state law:

- (1) Installing, creating, erecting or maintaining any sign in a way that is inconsistent with any plan to permit governing such sign or the lot on which the sign is located;
- (2) Installing, creating, erecting or maintaining any sign requiring a permit without such a permit;
- (3) Failing to remove any sign that is installed, created, erected or maintained in violation of this chapter or for which the sign permit has lapsed; or
- (4) Continuing any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this article.

Each sign installed, created, erected or maintained in violation of this article shall be considered a separate violation when applying the penalty sections of this article.

(Ord. No. 60A, art. III, § 2, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-340. Enforcement and remedies.

Any violation or attempted violation of this article or of any condition or requirement adopted pursuant hereto may be restrained, corrected or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. In the case of a violation of this article, the remedies available to the village shall include the following:

- (1) Issuing a stop work order for any and all work on any signs in the same lot or lots;
- (2) Seeking an injunction or other order of restraint or abatement that requires the removal of the sign or the correction of the nonconformity.
- (3) Issuing a civil citation to cause the violation to be corrected and imposing a penalty for failure to do so;
- (4) Seeking in court the imposition of any additional penalties that can be imposed by such court under this chapter; and
- (5) In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the village under the applicable provisions of this article and the building code for such circumstances.

The village shall have such other remedies as are and as may from time to time be provided for or allowed by state law for the violation of this article, except that a violation of this article shall not result in criminal proceedings.

(Ord. No. 60A, art. III, § 2.1, 11-13-1999; Ord. No. 2011-0402, 4-15-2011; Ord. No.

2014-0603, 7-25-2014) **Sec. 32-341. Citation.**

- (a) If through inspection, it is determined that a person has failed to comply with the provisions of this article, the building inspector shall issue a notice of violation by hand delivering such notice to the violator or by sending such notice by certified mail addressed to the violator. Violations shall be corrected within 15 days of the receipt of such notice except that a violation for failing or refusing to remove a temporary sign that does not comply with the provisions of this article or for

which the permit has expired must be corrected immediately upon receipt of such notice and in no event more than 24 hours after receipt of notice of the violation. If the violation is not corrected within the specified time period, a citation subject to a \$250.00 civil penalty shall be issued.

(b) If the violator does not correct the violation set forth in the citation within 72 hours after first being cited, additional \$250.00 civil penalties shall be issued per day thereafter until the violation is corrected. In the case of a violation related to a temporary sign the 72 hour waiting period before additional fines accumulate is reduced, such that if the violator does not correct the temporary sign violation set forth in the citation within 24 hours after first being cited, additional \$250.00 civil penalties shall be issued per day thereafter until the temporary sign violation is corrected.

() In the event the building inspector or a public safety officer cannot identify the violator responsible for a temporary sign violation, they shall remove the noncompliant temporary sign.

(c) These civil penalties are in addition to any other penalties or actions imposed by a court for violation of the provisions

of this article.

(e) All such remedies provided in this article shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

(f) For the purpose of calculating any time period imposed or required by this division, the first day of any activity or action required or authorized shall be excluded and the last day shall be included.

(Ord. No. 60A, art. III, § 2.2, 11-13-1999; Ord. No. 2011-0402, 4-15-2011; Ord. No.

2014-0603, 7-25-2014) **Sec. 32-342. Amendments.**

The village council may from time to time amend the terms of this article, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the planning board for review and recommendation. The planning board shall have 60 days within which to make a recommendation. If the planning board fails to make a recommendation within the specified time, it shall be deemed to have recommended approval for the amendment.

(Ord. No. 60A, art. III, § 4, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-343. Prohibited signs.

Signs not expressly authorized by this article shall be considered prohibited in all zoning districts. Prohibited signs shall include, but are not limited to the following:

(1) Any sign which obstructs the view of pedestrians, bicyclists, and vehicles at any street intersection or which interferes with the effectiveness of or obscures any traffic sign shall be prohibited. Any sign located in such a way as to deny a visual access to an existing sign.

(2) Any sign (other than a government sign) placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface and located in, over, or across any public or private street or right-of-way, unless expressly authorized by this article.

(3) Temporary, nonpermanent signs, including over-head streamers, unless expressly authorized by this article.

(4) Any sign that is attached to or mounted on a roof or projects above the plane of the building facade.

(5) Any sign which contains or consists of strings of light bulbs.

(6) Moored balloons or other floating signs that are tethered to the ground, a structure, or another type of sign.

(7) Portable or freestanding signs, including any sign painted or displayed on vehicles if such vehicle is parked in a location for the primary purpose of displaying the sign which advertise or identify a specific commercial event. For purposes of this subsection, the only signs that shall be permitted on electric carts are those that comply with the requirements of section 28-92.

(8) Separate signs attached to a freestanding sign or its supporting structure advertising services.

(9) Neon or internally lit signs.

(25) Off-premises commercial signs, or other off-premises signs unless expressly authorized by this article.

(26) Window signs.

(27) Revolving signs.

(28) Electrically operated, mounted, and illuminated signs.

(29) Any moving sign, windblown sign, or device to attract attention, whether or not any such device carries a written message, all or part of which is set in motion by wind, mechanical, electrical, or any other means. This shall include, but not be limited to, propellers, and discs.

(30) Any flashing sign or device displaying flashing or intermittent lights or lights of changing degrees of intensity. Any searchlight or similar device.

(Ord. No. 60A, art. III, § 5, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-344. Nonconforming signs.

(a) All nonconforming signs are permitted to exist, provided that the signs shall not be:

(1) Changed, altered, or replaced by another nonconforming sign, except that copy may be changed on an existing sign.

(2) Expanded or modified in any way.

(3) Relocated, except in conformance with the requirements of this article.

(b) The status of a nonconforming sign is not affected by changes in ownership.

(c) A nonconforming sign may be altered to become or be replaced with a conforming sign by right. Once a sign is altered

to conform or is replaced with a conforming sign, the nonconforming rights for that sign are lost and a nonconforming sign may not be re-established.

(d) Nonconforming temporary signs are not permitted and must be removed.

(Ord. No. 60A, art. III, § 6, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-345. Roof mounted marina signs.

Signs visible from the marina mounted upon the roof of a building and existing as of January 1, 2014 are exempt from the roof mounted signs, dimensions and other restrictions hereof that would make such sign unlawful or nonconforming. An exempt roof mounted marina sign may be repaired or replaced for the same use, provided there is no change in the size or use and provided the applicable (nonexempt) requirements of this article are met, including, without limitation, permit and compliance with building code.

(Ord. No. 2014-0603, 7-25-2014)

Secs. 32-346--32-360. Reserved.

DIVISION 2.

PERMITS

Sec. 32-361. Permit required.

(a) No sign, except as otherwise provided in this article, shall be painted, constructed, erected, remodeled, refaced, relocated, expanded or otherwise altered until a sign permit has been obtained from the building inspector in accordance with the provisions of this section.

(b) Notwithstanding subsection (a) of this section, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign such as to render the sign in violation of this article.

(c) All signs with the exception of bollard caps will have a valid permit issued by the village.

(Ord. No. 60A, art. IV, § 1, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-362. Application for permit.

Applications for permits shall contain or have attached to it the following information:

(1) The street number of the structure on which the sign is to be erected, and the tax parcel number of the property on which the sign is to be located.

(2) Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person or contractor erecting or affixing the sign.

(3) A site or plat plan of the property involved, showing accurate placement of the proposed sign including setbacks, all structures, etc.

(4) Two detailed scaled drawings of the plans and specifications of the sign to be erected or affixed. The building inspector shall inform the applicant prior to the application of this requirement. Such plans shall include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. In addition, these drawings shall show size of sign, logo, trademark, letters, words, numbers and all other information to be included in the sign to determine conformity to this article and consistency with regard to other signs and the integrity of the island.

(5) Other information as the building inspector may require to determine full compliance with this and other applicable codes.

(Ord. No. 60A, art. IV, § 2, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-363. Issuance of permits.

Upon the filing of an application for a sign permit, the building inspector shall examine the plans and specifications, and as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of these regulations and other applicable codes, a permit shall be issued. Any permit issued in accordance with this article shall automatically become null and void unless the work for which it

was issued has visibly been started within ~~6~~12 months of the date of issue or if the work authorized by it is suspended or abandoned for one year.

(Ord. No. 60A, art. IV, § 3, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-364. Fees.

To obtain a sign permit, all fees, in accordance with the approved fee schedule shall be paid.

(Ord. No. 60A, art. IV, § 4, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Secs. 32-365--32-380. Reserved.

DIVISION 3.

CONSTRUCTION AND MAINTENANCE

Sec. 32-381. Design, construction and maintenance.

All signs shall be designed, constructed and maintained in accordance with the following standards:

- (1) All signs shall comply with applicable provisions of the state building code at all times.
- (2) Except where specifically exempted by this article, all signs, including the supports, frames and embellishments thereto, shall not be located within any public right-of-way, nor shall any sign be attached, affixed or painted on any utility pole, tree, rock or other natural object.
- (3) Except for flags and regulated temporary signs conforming in all respects with the requirements of this division, all signs shall be constructed of wood or other semipermanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
- (4) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with the code at all times.
- (5) The village building inspector shall possess the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to the health, safety or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence. Notice to the owner shall be by personal service or registered mail, return receipt requested. Upon notification, the owner shall have 30 days to complete repairs. If the owner fails to complete repairs within appropriate time frames, then the village shall have all remedies as available in this article.
- (6) The immediate premises around a sign shall be kept free from debris. However, no person may damage, destroy, or remove any trees, shrubs or other vegetation located within the right-of-way of any public or private street or road for the purpose of increasing or enhancing the visibility of any sign, unless specifically approved by the village manager.

(Ord. No. 60A, art. V, § 1, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-382. Reconstruction of damaged signs or sign structures.

(a) Any permitted or nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within 60 days and completed within 120 days of such damage. However, if the sign should be declared unsafe by the village building inspector, the owner of the sign or the owner of the property whereon the sign is located, shall immediately correct all unsafe conditions in a manner satisfactory to the village building inspector.

(b) For purposes of this section, a nonconforming sign (or its structure) shall be considered destroyed, and therefore shall not be repaired or replaced, if it receives damage to the extent of more than 50 percent of its value as determined by the village building inspector. Signs destroyed by proven vandalism may be replaced, but may not be changed, altered, or enlarged from their original state.

(Ord. No. 60A, art. V, § 2, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-383. Removal of sign upon termination of business.

A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. Such sign, if not removed within 30 days from the termination of occupancy by such business, shall be in violation of this chapter.

(Ord. No. 60A, art. V, § 3, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-384. Dilapidated signs.

All signs shall be maintained in good working condition so as to present a neat and orderly appearance. The building inspector may give written notice to remove or repair, within 30 days, any sign which shows gross neglect or which becomes dilapidated. Failure to comply shall be a violation of this article.

(Ord. No. 60A, art. V, § 4, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Secs. 32-385--32-400. Reserved.

DIVISION 4.

GENERAL SIGN REGULATIONS

Sec. 32-401. Signs permitted in all districts.

The following signs shall be permitted in all zoning districts, subject to the standards set forth in this section and elsewhere in this article, and shall require a sign permit unless otherwise indicated:

(1) *Temporary signs.* Temporary signs shall be nonilluminated and limited to the following types:

a. Construction signs, which identify the architects, engineers and contractors involved with the construction. Construction signs shall be a maximum of 7.5 square feet in area and a maximum height of six feet. Such signs shall be removed upon issuance of a certificate of occupancy. A sign permit shall be required if the sign is not included in the building permit application.

b. Signs advertising only the name, time, place and information concerning any special event; provided that all such signs shall be removed within 24 hours after the last day of the event to which they pertain. Signs for this purpose shall be erected no earlier than seven days prior to the special event. The maximum sign area shall be 128 square feet per sign. No more than three such signs shall be erected for each special event. A sign permit is required.

c. Real estate signs, in the form of a bollard cap as defined in this chapter, advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed. Real estate signs shall be a maximum of one square foot in area per side and a maximum bollard height of four feet. Sign copy shall be allowed only on one side of the sign. Sandwich board signs are not permitted for these purposes. Such signs shall be removed within seven days after the property has been sold. These temporary signs shall not require a permit.

d. Seasonal and holiday decorations: Such banners shall not display the name of a business or shopping center, nor the words "open," "sale," "vacancy," or other similar words or phrases related to the business activity on the premises. Such banners shall be take down or removed within a reasonable time period following the end of the season or holiday to which they pertain. No permit is required for these signs.

e. Open house signs, in the form of a bollard cap as defined in this chapter, indicating the availability of an agent in conjunction with the advertisement of the sale, rental or lease of the premises or part of the premises on which the sign is displayed. Open house signs shall be a maximum of one square foot in area per side and a maximum height of four feet. Sign copy shall be allowed on three sides of the sign. Sandwich board signs are not permitted for these purposes. Such signs shall be removed immediately after the open house is complete. These temporary signs shall not require a permit.

f. Government signs: No permit is required for these signs. Approval of signs by Development Services is required. (2) *Permanent signs.*

a. Traffic signs on private property shall contain no commercial message of any sort. These signs shall be constructed to specifications in appendix A which is on file and available for inspection in the village offices. Traffic signs may be located within a public or private street with approval of the village manager.

b. Informational signs of a public utility regarding its lines, pipes or facilities. No permit is required.

c. Names of buildings, dates of erection, monumental citations, commemorative tablets, insignia of local, state or federal government, and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the structure.

d. Informational signs of a public or quasi-public nature identifying or locating a public building, parking area, historic area, major tourist attraction or similar public or quasi-public activity; and also including signs identifying parking lots, or other facilities relating to such places or activities. The village manager shall have the authority to approve such signs only to the extent that such signs shall be of the minimum size and number to reasonably convey information provided thereby.

e. Directional signs provided that:

1. All such signs shall be located off the road right-of-way.

2. The maximum area of the sign shall be four square feet.

3. Only one directional sign shall be allowed per residential development (planned unit developments, subdivisions, multi-family developments only). In the event that residential developments are adjacent to or in close proximity to each other, and are under single ownership, the developments shall share signage area in order to decrease the number of signs on the island. The village manager shall determine whether shared signage is required. Directional signs shall meet all specifications defined in appendix B which is on file and available for inspection in the village offices.

4. In the event that residential developments utilize such signage, the square footage utilized shall be subtracted from the total square footage allowed for the development's project identification sign.

5. The maximum height of the sign shall be five feet.

f. Golf course signs relating to golf play and conduct shall be allowed, provided that such sign does not exceed two square feet in area. No permit is required.

g. Historical markers, monuments, or signs erected by public authority. No permit is required.

h. Directional maps. The village manager shall have the authority to approve such signs only to the extent that such signs shall be of the minimum size and number to reasonably convey information provided thereby.

i. Government signs.

j. Road or street name signs. These signs shall be constructed to specifications in appendix C which is on file and available for inspection in the village offices.

~~k~~.k. Instructional on-premises signs. The village manger shall have the authority to approve such signs only to the extent that such signs shall be of the minimum size and number to reasonably convey information provided thereby. These signs shall be constructed to specifications in appendix D which is on file and available for inspection in the village offices.

~~l~~.l. Bulletin board. Bulletin boards are allowed if not visible from a right-of-way. A bulletin board located within the four walls of a building or residence may have commercial advertising.

~~m~~.m. Vending machines. An ATM, drink, DVD or other vending machine shall be shielded from view from a right-of-way or adjacent property and, if so shielded, shall be exempt from the neon and internally lit restrictions of section 32-343(9).

(Ord. No. 60A, art. VI, § 1, 11-13-1999; Ord. No. 2001-009, § 1, 5-19-2001; Ord. No. 2014-0603, 7-25-2014) **Sec. 32-402. Sign regulations for residential uses.**

Residential uses shall be considered those permitted in this chapter. The following signs shall not require a permit unless otherwise indicated:

(1) *Single-family dwelling unit identification.* One building-mounted sign or freestanding sign, not exceeding two square feet in area for each dwelling unit, shall be permitted. Such sign shall indicate only the name of the occupant, the name of the dwelling unit or property unit or property, and/or its location. Such freestanding signs shall not exceed two feet in height.

(2) *Multifamily building identification.* One or more building-mounted signs, not exceeding four square feet per building, shall be permitted for the purpose of identifying a multifamily building. The language on such signs shall be for identification purposes only, not including any message of a commercial nature.

(3) *Home occupations.* Signs for the purpose of identifying home occupations shall be prohibited.

(4) *Decorative flags.* One wall-mounted decorative flag, not to exceed ten square feet in area, shall be allowed for a dwelling unit. Such flag shall not indicate the name or logo of a business or home occupation, nor a written message pertaining to a business or home occupation.

(5) *Subdivision or project identification.* Freestanding ground-mounted signs, with a maximum area of 24 square feet, shall be permitted for the identification of a subdivision, apartment or condominium complex, planned development, and each multi-family site contained within a planned unit development, if located at the entrance to the project, on project property. No more than one sign shall be permitted at each entrance (a maximum of two per project). If such signs are "double-faced", the sign shall be limited to 15 square feet per face. The maximum height for these type signs shall be five feet. A permit is required for project identification signs.

(6) *Additional regulations for signs allowed by this section.*

a. Unless otherwise indicated, freestanding signs shall have a maximum height of five feet.

b. No sign shall project beyond the property line or be located on or project over a private or village right-of-way, except that subdivision or project identification signs may be allowed within such area if approved by the village manager, upon a determination that the location of such sign does not interfere with utilization of the right-of-way (functional or visual), and upon a further finding that the signs must be maintained by a property owner's association or the property owner. Authorization of the property owner to use the property must be provided.

c. All signs shall be nonilluminated, unless otherwise specified.

(Ord. No. 60A, art. VI, § 2, 11-13-1999; Ord. No. 2005-011, 7-15-2005; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-403. Sign regulations for commercial and not-for-profit uses.

The following signs shall require a sign permit unless otherwise indicated:

(1) *Single business on a single lot.*

a. Type of signs permitted: building-mounted and door.

b. Number of signs permitted: one building-mounted, one door. For buildings fronting on more than one public street, and having more than one public entrance, each frontage with a public

entrance shall be considered separately when calculating building-mounted or door sign area. Such buildings may be allowed a maximum of two building-mounted signs and a maximum of two door signs.

c. Maximum sign area: nine square feet -building mounted; two square feet - door.

(2) Two or more businesses in the same building, or on the same lot or on adjoining properties under the same ownership, and having shared parking lots and/or driveways.

a. Type of signs permitted: building-mounted and door.

b. Number of signs permitted: one building-mounted signs and one door sign for each business with a separate main exterior public entrance. Where two or more businesses share a main exterior public entrance, one building-mounted sign and one door sign shall be permitted to be shared by the businesses located therein. Where one or more business has a second entrance used as a public entrance from an adjacent parking lot, public street or driveway, one additional building-mounted sign and one door sign may be placed at the second entrance.

~~c. e.~~ Maximum sign area: nine square feet per sign - building-mounted; two square feet per sign - door.

(3) *Commercial subdivision or commercial designed complex project identification sign.*
Freestanding ground-mounted signs, with a maximum area of 24 square feet shall be permitted for the identification of a commercial subdivision or commercial designed complex, if located at the entrance to the project. No more than one sign shall be permitted at each entrance (a maximum of two per project). If such signs are double-faced, the sign shall be limited to 15 square feet per face. The maximum height for these type signs shall be five feet. A permit is required for project identification signs.

(4) *Not-for-profit business/tax exempt business.*

- a. Type of signs permitted: building-mounted and bulletin boards.
- b. Number of signs permitted: one building mounted, one bulletin board.
- c. Maximum sign area: nine square feet--building mounted; 20 square feet--bulletin board (may be freestanding).
- d. Up to four off-premises signs shall be permitted weekly to promote fund raising events. Signs are to be wood framed with a maximum area of five square feet. Signs are permitted 48 hours prior to the fundraising event and must be removed the day of the event.

(5) *Additional regulations for signs allowed by this section.*

- a. Unless otherwise indicated, freestanding signs shall have a maximum height of five feet.
- b. No sign shall project beyond the property line or be located on or project over a private or village right-of-way, except that signs for not-for-profit uses may be allowed within such area if approved by the village manager, upon a determination that the location of such sign does not interfere with utilization of the right-of-way (functional or visual), and upon a further finding that the signs must be maintained by the nonprofit entity responsible for the sign.

(6) *Additional regulations for sandwich board signs.*

- a. Notwithstanding any other provisions contained within this article, sandwich board signs shall be allowed only in zoning districts that are zoned for commercial use pursuant to section 32-121, *et seq.*
- b. Number of signs allowed: one sandwich board sign per business. Except that in cases of commercial buildings that have a single public entrance used by multiple tenants, one sandwich board sign shall be allowed to be shared by the businesses located therein.
- c. Placement of signs: sandwich board signs may be placed on a sidewalk or other pedestrian walkway directly in front of the associated business establishment. A minimum of five feet of passage must be maintained between the public right-of-way of any street and the sign. In all instances, a sandwich board sign must be placed so as not to interfere with or obstruct pedestrian or vehicular traffic. Sandwich board signs may not be anchored to the sidewalk, or attached or chained to poles, newspaper vending boxes, or other structures or appurtenances. However, in the interest of public safety sandwich board signs may be temporarily weighted down and must be removed in high winds.
- d. Size: Sandwich board signs shall not exceed two linear feet in width and three linear feet in height on either of the two sides of the sign. Maximum display area for a sandwich board sign is 12 square feet.
- e. Display hours: Sandwich board signs shall be displayed in front of a business establishment only during the hours that the business is open and only while an employee is present on the premises. Sandwich board signs must be removed at the end of the business day or when no employee is present on the premises, such as during a lunch break where the business is closed.
- f. No permit required: Sandwich board signs that comply with this section shall not require a permit; however, in the interest of public safety, sandwich board signs that are found not to comply with this section or which present an immediate danger to the public safety may be removed by the Village.

(Ord. No. 60A, art. VI, § 3, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-404. Supplemental sign regulations.

The following regulations shall apply for all signs, unless specified otherwise in this article:

(1) All permanent or off-premises signs must be made or constructed of wood or other semipermanent materials.

(2) All signs shall be set back a minimum of five feet from the property line or ten feet from the edge of the road surface, whichever is greater. This provision shall not apply to traffic signs. Bollard caps, placed on existing street address bollards, located within the street right-of-ways are exempt from this requirement.

(3) Traffic signs for private streets shall be allowed in rights-of-way, with appropriate setbacks from roadway surfaces to promote public safety as determined by the village manager.

(4) Signs, other than those specified in this article as permitted, shall be considered prohibited signs.

(5) All signs shall be nonilluminated, unless otherwise specified.

(6) Notwithstanding any other provisions contained within this article, in multifamily developments and nonresidential developments where various uses or occupants are subject to legally enforceable restrictions imposed by covenant or lease,

the planning board may approve project signage guidelines, if the guidelines are consistent with the intent of this article, and promotes creative and attractive signage, constructed in accordance with a uniform plan of control and approval, so that neither aesthetics nor maintenance standards embodied by this article are compromised.

(7) Notwithstanding any other provisions contained within this article, the following locations shall be required to comply with master signage plans reviewed and adopted by the planning board to promote creative and attractive signage, constructed in accordance with a uniform plan of control and approval, so that neither aesthetics nor maintenance standards embodied by this article are compromised:

- a. Merchant's Row;
- b. The Bald Head Island Club;
- c. The Shoals Club.

(8) Temporary booths set up during special events may display commercial logos or advertising. Nonpermanent signs erected for special events, pursuant to section 32-401(1)b, may display commercial logos or advertising on a sign which also advertises the name, time, place, and information concerning any such special event.

(Ord. No. 60A, art. VI, § 4, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

Sec. 32-405. Hardship cases.

Whenever the location, topography or configuration of any lot on which any permitted use is conducted is such as will cause a hardship by the limitations placed on the signs permitted by this article due to sight distances, existing vegetation, location of buildings on adjacent lots and/or the topography of the parcel, the ~~zoning board of adjustment may~~ planning board may, after an evidentiary hearing, grant a modification to these regulations. A modification may be approved if it is found that:

(1) It is designed, constructed and operated to adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property;

- (2) It does not unreasonably impair an adequate supply of light and air to adjacent property;
 - (3) It does not increase public danger from fire or otherwise unreasonably restrict public safety;
- and
- (4) It does not impair the established property values in surrounding areas.
- (Ord. No. 60A, art. VI, § 5, 11-13-1999; Ord. No. 2014-0603, 7-25-2014)

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