

Town of Vass, North Carolina

ZONING ORDINANCE

Adopted December 8, 2008

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Article 1, LEGAL PROVISIONS

1.1 Short Title

This Ordinance shall be known, and may be cited, as the Town of Vass Zoning Ordinance, “this Ordinance”, the “Zoning Ordinance”, or “these regulations”.

1.2 Authority

A. This Ordinance is adopted pursuant to the authority vested in the Town of Vass by its Charter and those contained in NC General Statutes (NCGS) 160D (Local Planning and Development Regulation); and NCGS 143, Article 33C (Meetings of Public Bodies); NCGS Chapter 113A (Pollution Control and Environment), NCGS 143-214.5 (Water Supply Watershed Protection), and other relevant sections and any future amendments.

B. Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.3 Jurisdiction

A. This Ordinance shall be effective throughout the Town’s planning jurisdiction. The Town’s planning jurisdiction comprises the area within the corporate boundaries of the Town as well as the area described in that Ordinance adopted by the Town Board of Commissioners on April 8, 1991, entitled an “Ordinance Establishing Extraterritorial Jurisdiction”, which Ordinance is recorded in Book 868, Page 409, of the Moore County Registry. Such planning jurisdiction may be modified from time to time in accordance with NCGS 160D-202 (Municipal Extraterritorial Jurisdiction).

B. In addition to other locations required by law, a copy of a map showing the boundaries of the Town’s planning jurisdiction, as well as the Town’s Official Zoning Map as described in Article 7 (Zoning Districts and Official Zoning Map) shall be available for public inspection in the Town Clerk’s Office. Paper and/or digital format Official Zoning Maps must be maintained and provided when requested by any member of the public. Additionally, all state and federal agency maps incorporated by reference, must be maintained in paper or digital format.

1.4 Declaration of Necessity

In order to protect and promote the health safety, and general welfare of the Town and its extraterritorial jurisdiction, this Ordinance is adopted by the Town Board of Commissioners to regulate and restrict by means of zoning regulations the height, number of stories, and size of

buildings, and other structures; the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, and other purposes.

1.5 General Purpose

The purpose of the regulations set forth in this Ordinance shall be to accomplish compatible development of the land within the planning jurisdiction of the Town in a manner that will best promote the public health, safety, and general welfare; to lessen congestion in the streets; to promote efficiency, energy conservation, and economy in development; to make adequate provisions for traffic; to secure safety from fire, flooding, panic, and other hazards; to provide for adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings; to promote desirable living conditions and the stability of neighborhoods; to protect property against blight and depreciation; to ensure accessibility for handicapped persons; to regulate placement and design of telecommunications facilities and equipment so as to protect the public health, safety, and general welfare; to encourage the most appropriate use of land; and to achieve other purposes in accord with the Land Use Development Plan for the Town's planning jurisdiction.

1.6 Relationship to Existing Zoning Ordinance

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town's Zoning Ordinance, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted Zoning Ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the previous Zoning Ordinance.

1.7 Relationship to Land Use Development Plan

It is the intention of the Town Board of Commissioners that this Ordinance implement the planning policies adopted by the Town Board of Commissioners for the Town and its planning area, as reflected in the Comprehensive Land Use Plan and other planning documents. While the Town Board of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the Town Board of Commissioners hereby expresses its intent that neither this Ordinance nor any amendments to it may be challenged on the basis of any alleged nonconformity with any planning document.

1.8 Conflict with Other Regulations

Wherever the provisions of any other statute or Town ordinance or regulation require a lower height of buildings, or less number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under

authority of this Ordinance, the provisions of such statute or Town ordinance or regulation shall govern. **Word Interpretation** - For the purpose of this ordinance, certain words shall be interpreted as follows:

Words used in the present tense include the future tense. Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

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

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

The word "lot" shall include the words "plot", "parcel", or "tract".

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

1.9 Relationship to Private Agreements

It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other private agreements between parties, provided, however, that wherever the regulations of this Ordinance require greater width or size of yards or courts, or require a lower height of buildings or less number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other such private agreement, the provision of the regulations made under authority of this Ordinance shall govern.

1.10 Zoning of Annexed Land

All territory that may hereafter be included within the zoning jurisdiction of the Town of Vass shall be zoned by the Town Board of Commissioners at the time of such incorporation, or within 60 days.

1.11 Compliance with Ordinance

Except as otherwise specifically provided in this Ordinance, no land or structure shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved, except in compliance with all of the applicable provisions of this Ordinance.

1.12 Fees

A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for Zoning Compliance Permits, Sign Permits, Special Use Permits, zoning amendments, appeals, variances, and other administrative relief. The amount of the fees charged shall be as set forth in the Town's budget or as established by resolution of the Town Board of Commissioners filed in the Office of the Town Clerk.

B. Fees established in accordance with Subsection A shall be paid upon submission of a signed application or notice of appeal. Fees associated with the cost of legal ads and contracted professional (i.e. engineer) may be charged to the applicant once the true cost is invoiced.

1.13 Severability

It is hereby declared to be the intention of the Town Board of Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance since the same would have been enacted without the incorporation into this Ordinance of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

1.14 Rules Applicable to Lots Split by Zoning Districts

A. Whenever a single lot two (2) acres or less in size is located within two (2) or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.

B. Whenever a single lot greater than two (2) acres in size is located in two (2) or more different zoning districts, each portion of that lot shall be subject to all regulations applicable to the district in which it is located.

1.15 Military Notification.

If the adoption or modification of the ordinance would result in any of the changes listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the Administrative Officer shall provide notice of the proposed changes by certified mail or electronically (email or online system), or by any other means reasonably designed to provide actual notice, to the Fort Bragg Coordinating Official or the their designee not less than 10 days, nor more than 25 days before the date fixed for the public hearing. Prior

to the date of the public hearing, the military may provide comments or analysis to the board regarding the compatibility of the proposed changes with military operations at the base. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration when making a final determination on the ordinance. The proposed changes requiring notice are:

1. Changes to the zoning map;
2. Changes that affect the permitted uses of land;
3. Any application relating to telecommunications towers or windmills;
4. Special Use Permits when it includes proposed structures greater than 50' in height.
5. Major subdivisions.

1.16 Vested Rights; Site Specific Development Plan

A. The Town Board of Commissioners determines that a Special Use Permit shall be regarded as a "site specific development plan" under the provisions of NCGS 160D-108.1 (Vested rights – site-specific vesting plans). Therefore, once a Special Use Permit has been issued, the permit recipient shall have a vested right to complete the development authorized by such permit in accordance with its terms, irrespective of subsequent amendments to this Ordinance, to the extent provided in 160D-108.1 (Vested rights – site-specific vesting plans).

B. The following requirements must be met before an approval for a site-specific development plan is approved:

   1. A statement by the developer shall be submitted with the application that indicates the anticipated development schedule for the build-out of the project;
   2. A statement from the developer shall be submitted with the application that justifies the request for vesting of the project for a period of more than two (2) years (five (5) years maximum);
   3. The project shall meet all applicable design standards and other requirements of the Town of Vass Zoning Ordinance;
   4. The development can reasonably be completed within the vested period requested;
   5. Vesting shall not be approved where the request is in excess of two (2) years, and the project is located in an area where current issues under study involve potential amendments to the Comprehensive Land Use Plan, Town of Vass Zoning Ordinance, or other approved Plans

C. The Town Board of Commissioners further determines that recipients of Zoning Compliance Permits should be entitled to the same protections as recipients of Special Use Permits. Therefore, once a permit has been issued, the permit recipient shall have a "vested right" to complete the development authorized by

such permit in accordance with its terms, irrespective of subsequent amendments to this Ordinance, to the same extent provided in 160D-108 (Vested rights – site-specific vesting plans) for developments authorized by the approval of "site specific development plans."

D. A vested right under this Section commences upon the issuance of the permit in question, and the date of issuance is to be determined in accordance with the provisions of Section 3.4 (Expiration of Permits), Subsection D.

1. A zoning vested right that has been vested as provided in this Ordinance shall remain vested for a period of two (2) years. This vesting shall not be extended by any amendments or modifications to a site-specific development plan (that are not processed as new applications – see Section 3.6 (Amendments to and Modifications of Permits), unless expressly provided by the approval authority at the time the amendment or modification is approved;
2. As provided in 160D-108 (Vested rights and permit choice), (d) (Duration of vesting), a right that has been vested in accordance with this Section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

E. Nothing in this Section shall prohibit the revocation of a permit pursuant to Section 5.6.1 (Permit Revocation), and the vesting of rights provided for under this Section shall be terminated upon such revocation.

F. The effect of this Section is to ensure that, during the period of vesting, the developer is protected from subsequent changes in this Ordinance to a greater extent than is authorized under Section 1.17 (Vested Rights Upon Issuance of Building Permits) (that provides for a vesting of rights only after a building permit has been obtained), or Section 6.7 (Completion of Nonconforming Projects) (that generally provides for a vesting of rights only after the developer has made substantial expenditures in good faith reliance upon this Ordinance).

1.17 Vested Rights Upon Issuance of Development Permits

As provided in NCGS 160D, amendments, modifications, supplements, repeal, or other changes in the zoning regulations set forth in this Ordinance or zoning district boundaries shall not be applicable or enforceable without consent of the owner with respect to buildings and uses for which a development approval has been issued pursuant to NCGS 160D-403 (Permits) prior to the enactment of the ordinance making the change or changes, so long as the permit remains valid and un-expired pursuant to NCGS 160D-403(c) (Time Limitations on Validity of Permits), and un-revoked pursuant to NCGS 160D-403(f) (Revocation of Permits).

1.18 Permit Choice

As provided in NCGS 160D-108 (Vested rights and permit choice), if a land development regulation is amended between the time a development permit was submitted and development permit decision is made, the applicant may choose which version of the development regulation will apply to the application.

If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendments to the rule, map, or ordinance prior to acting on the development permit.

The Town may require that the applicant comply with the amended rules if the permit applicant is put on hold at the request of the applicant for a period of six months or more, or fails to respond to comments, or provide additional information that is reasonably requested as part of their application (refer to NCGS 160D-108(b) and 143-755(b1)).

1.19 Effective Date

A. This Ordinance and its provisions governing the use of land and buildings, the height of buildings, and other matters as hereinafter set forth are hereby established and declared to be in full force and effect from and after its passage and any Zoning Ordinance previously adopted is hereby repealed.

Article 2, THE TOWN BOARD OF COMMISSIONERS AND ITS ADMINISTRATIVE MECHANISMS

Part I. Town Board of Commissioners

2.1 Town Board of Commissioners Responsibilities

The Town Board of Commissioners has the following responsibilities in relation to this Ordinance:

1. Hear and decide applications for amendments to the text and map portions of this Ordinance;
2. Hear and decide applications for the approval of Special Use Permits that are noted in the Table of Permitted Uses;
3. Hear and decide applications for the approval of Special Intensity Allocations (SIAs) under the provisions of Article 13 (Water Supply Watershed Overlay Regulations);
4. Establish Rules of Procedure for the conduct of hearings and other proceedings before the Town Board of Commissioners in exercising;
5. Make the necessary appointments to the Planning Board and Zoning Board of Adjustment;
6. Provide by appropriation, funds for the administration of this Ordinance.

2.2 Procedure on Amendments to This Ordinance

Amendments to this Ordinance shall be processed in accordance with the provisions of Article 17 (Amendments). The Town Board of Commissioners, in exercising this power, are bound by the State enabling legislation, the terms of this Ordinance and applicable court decisions in carrying out its legislative function.

2.3 Procedure on Application for Approval of Special Uses

The Town Board of Commissioners, when considering applications for approval of Special Uses, sits in a quasi-judicial capacity and shall follow quasi-judicial procedure as provided in Section 4.1 and shall observe the applicable requirements of Article 3 (Permits, Site Plans, and Approvals).

2.4 Conflicts of Interest

A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to 160D 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 governing board member 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.

Part 2. Planning Board

2.5 Intent

The Town Board of Commissioners, under the authority of Chapter 160D (Local Planning and Development Regulation) of the General Statutes of North Carolina, as amended, for the purposes and advantages described herein, intends to create a Planning Board and embark on a continuing planning program, including, but not limited to, the preparation and maintenance of a Land Use Development Plan for the Town of Vass and its extraterritorial planning jurisdiction, in protection of the public health, safety, and general welfare of present and future residents, landowners, and visitors.

2.6 Establishment and Principles

A. In establishing the Planning Board and its program, the Town Board of Commissioners intends that the Planning Board be guided by the following principles:

B. The Land Use Development Plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, and harmonious development of the Town that will, in accordance with present and future needs, best promote the health, safety and the general welfare, as well as efficiency in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of populations, the promotion of good civic design, wise and efficient expenditure of public funds, and adequate provision of public utilities, services, and other public requirements, and conservation of significant natural and man-made resources within the Town.

2.7 Qualifications for Members

The Planning Board shall consist of five (5) members. The Town will evaluate the proportion of ETJ population with each decennial census and include board member representation proportional to the population. The appointment of the ETJ representative is sent as a request to the County for appointment. The county must appoint the member within 90 days. Failure of the County to do so does not limit the town's zoning jurisdiction of the ETJ area. The remaining board members shall be residents of the Town of Vass and appointed by the Board of Commissioners. Members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties. All board members shall take an oath of office at the beginning of their term.

2.8 Tenure

The tenure of office for Planning Board members shall be three (3) years, at which time the Board of Commissioners may re-appoint the member for a consecutive term.

2.9 Rules of Procedure

A. The Planning Board shall recommend Rules of Procedure for the conduct of its affairs, to be adopted by the Town Board of Commissioners.

B. Among other matters, the Rules of Procedure shall provide for the office of Chairperson and Vice Chairperson, whose term of office shall be one (1) year, with eligibility for re-election.

C. A quorum for conduct of business of the Board shall be a majority of the appointed members.

D. The Rules of Procedure shall require the Board to meet at least once a month on an as needed basis and provide for the calling of special meetings as the need of the Board requires.

E. As required by NCGS 160D-308, the adopted Rules of Procedure for the board must be posted on the Town of Vass website.

2.10 Meetings

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by Article 33C (Meetings of Public Bodies), Chapter 143 (State Departments, Institutions, and Commissions), of the North Carolina General Statutes, and NCGS 143-318.11 (Closed Sessions) et. seq., as amended.

2.11 Meeting Minutes

The Planning Board shall cause minutes of its meetings to be maintained as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data and testimony presented to it.

2.12 General Powers and Duties

As provided for in NCGS 160D-301 (Planning boards), as amended, the Planning Board shall have the following powers and duties:

1. Make studies of the Town of Vass and surrounding areas;

2. Determine objectives to be sought in the development of the Town of Vass and its extraterritorial planning jurisdiction;
3. Propose and recommend plans for achieving these objectives;
4. Develop and recommend to the Town Board of Commissioners policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
5. Advise the Town Board of Commissioners concerning the use and amendment of means for carrying out plans;
6. Exercise such functions in the administration and enforcement of various means for carrying out plans as may be assigned by this or other ordinances of the Town;
7. Perform other related duties as may be assigned by the Town Board of Commissioners and any additional duties set forth elsewhere in this Zoning Ordinance.

2.13 Specific Powers and Duties

In furtherance of Section 2.11 (General Powers and Duties), the Planning Board is authorized and directed to:

1. Gather maps and aerial photographs of man-made and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the area, land use, and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the Town of Vass and its various parts as background for its Land Use Development Plan and any ordinances it may prepare;
2. Make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities, that may include, but are not limited to, studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities, traffic, transportation, and parking facilities; environmentally critical areas and important natural resources. All Town officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work;
3. Recommend for approval by the Town Board of Commissioners, a Land Use Development Plan for the development of the Town;
4. Consider for approval, approval with modifications, or disapproval of, proposed plats of subdivision as specified in the Town of Vass Subdivision Regulations;
5. To make recommendations, upon referral, on all proposed amendments to this Ordinance in accord with Article 17 (Amendments);
6. Make recommendations to the Town Board of Commissioners as appropriate, on applications for approval of Special Intensity Allocations (SIAs) in accord with Articles 3 (Permits, Site Plans, and Approvals) and 13 (Water Supply Watershed Overlay Regulations), Section 13.5.2 (Special Intensity Allocations);
7. Prepare and recommend to the Town Board of Commissioners new ordinances or amendments to existing ordinances that will have the effect of implementing the Land Use Development Plan;

8. Engage in a program of information dissemination to the public and officials;
9. Recommend to the Town Board of Commissioners the establishment and/or continuation of any advisory councils and cooperate with these councils to the end that Planning Board investigations and plans may receive fullest consideration;
10. Establish advisory committees to assist it in its functions;
11. Perform all necessary actions in support of its powers and duties.

2.14 Intent of the Comprehensive Land Use Plan

A. The Comprehensive Land Use Plan shall constitute an internally consistent and compatible statement of policies for the long-term, physical development of the Town and its extraterritorial planning jurisdiction. The Comprehensive Land Use Plan shall consist of a statement of development policies and shall include maps and text setting forth objectives, principles, standards and plan proposals for physical development.

B. As part of the Comprehensive Land Use Plan, area plans may be prepared that focus on a portion of the Town such as a neighborhood, transportation corridor, or a major highway interchange. Likewise, technical information and/or task force reports prepared as part of the Plan or an area plan may be incorporated as part of the appendix of, or as a supplement to, the Comprehensive Land Use Plan.

C. In preparation of an area plan or other similar document, the Town Board of Commissioners shall be ever mindful of the need to balance the public interest with the needs of private interests, particularly in the conservation of surface and underground water resources, soil resources, and natural growth resources of the Town and County, and the efficient use of renewable and non-renewable sources of energy.

2.15 Administrative Officer to Act as Staff to Planning Board

The Administrative Officer, under the direction of the Mayor, shall provide staff service to assist the Planning Board in carrying out its duties.

2.16 Conflicts of Interest

Members of appointed boards 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. An appointed board member 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.

Part 3. Zoning Board of Adjustment

2.17 Establishment of the Zoning Board of Adjustment

A Zoning Board of Adjustment is hereby established. The Zoning Board of Adjustment may be the same membership as the Planning Board, plus one alternate member. It shall consist of five (5) regular members, and one (1) alternate member. Four (4) members and one (1) alternate, appointed by the Town Board of Commissioners, shall reside within the Town. The Town will evaluate the proportion of ETJ population with each decennial census and include board member representation proportional to the population. The appointment of the ETJ representative is sent as a request to the County for appointment. The County must appoint the member within 90 days. Failure of the county to do so does not limit the town's zoning jurisdiction of the ETJ area. The remaining board members shall be residents of the Town of Vass and appointed by the Board of Commissioners. Members shall serve without compensation, but may be reimbursed for incidental expenses incurred in connection with official duties. All board members shall take an oath of office at the beginning of their term.

2.18 Tenure

The tenure of office for Zoning Board of Adjustment members shall be three (3) years, at which time the Board of Commissioners may re-appoint the member for a consecutive term.

2.19 Rules of Procedure

A. The Zoning Board of Adjustment shall adopt Rules of Procedure for the conduct of its affairs.

B. Among other matters, the Rules of Procedure shall provide for the office of Chairperson and Vice Chairperson, whose term of office shall be one (1) year, with eligibility for re-election.

C. As required by NCGS 160D-308, the adopted Rules of Procedure for the board must be posted on the Town of Vass website.

2.20 Powers of the Zoning Board of Adjustment

The Zoning Board of Adjustment shall have the following powers:

1. Hear and decide appeals of decisions of the Administrative Officer in the performance of his/her official duties in interpreting and administering this Zoning Ordinance. As used in this section, the term "decision" includes any final and binding order, requirement or determination.
2. Hear and decide requests for variances from the regulations of this Ordinance. Nothing in this Ordinance shall be construed to authorize the Zoning Board of

Adjustment to permit a use in a district where that use is neither a Permitted Use nor a Special Use;

3. Pass upon, decide, or determine such other matters as may be required by this Ordinance.
4. When deciding appeals and requests for variances, the Board of Adjustment shall follow quasi-judicial procedures set forth in section 4.1 and the other applicable ordinances set forth in Article 4.

2.21 Notice of Hearing

Notice of hearings conducted by the Board of Adjustment shall be mailed to the person or entity whose appeal, application, or request 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; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

2.22 Meetings and Administration

A. All meetings of the Board shall be conducted in compliance with the North Carolina Open Meetings Law, as required by Article 33C (Meetings of Public Bodies), Chapter 143 (State Departments, Institutions, and Commissions) of the North Carolina General Statutes et. seq., as amended. The Board shall give notice of its meetings as provided in the Open Meetings Law. Notice shall be given to Zoning Board of Adjustment members as provided in the Rules of Procedure adopted by the Board.

B. Applications for variances and appeals for review of decisions of the Administrative Officer's interpretations shall be filed with the Administrative Officer as agent for the Board. Applications and appeals shall be submitted on forms provided by the Administrative Officer.

C. The Board shall act on all applications before it.

D. The Board shall act on any appeal of a Stop Work Order issued by the Administrative Officer at its next regularly scheduled meeting, or at any special called or emergency meeting called to address the Stop Work Order.

E. It shall be the responsibility of the Administrative Officer to issue permits in accord with the Board's action on an appeal or application, if a permit is authorized by the Board's action.

F. The Administrative Officer shall see to the faithful execution of all portions of the Board's actions, including the enforcement of all conditions that may have been attached to the granting of a variance.

2.23 Oaths

A. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board.

B. Any person who, while under oath during a proceeding before the board, willfully swears falsely is guilty of a Class 1 misdemeanor.

2.24 Subpoenas

The board of adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160D-1402 may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

2.25 Voting

A. The concurring vote of four-fifths of the board of adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, 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 if there are no qualified alternates available to take the place of such members.

B. A member of the board exercising quasi-judicial functions pursuant to this ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible 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. If an objection is raised to a member's participation and that member

does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2.26 Meeting Minutes

The Board shall keep a record of its meetings, including the vote of each member on every question, complete detailed minutes of testimony given, and of evidence submitted to it, documents submitted to it, and all official actions.

2.27 Conflicts of Interest

Members of appointed boards 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. An appointed board member 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.

Part 4. Historic Preservation Commission

2.28 Intent

The Town Board of Commissioners, under the authority of Chapter 160D (Local Planning and Development Regulation) of the General Statutes of North Carolina, as amended, for the purposes and advantages described herein, may create a Historic Preservation Commission.

2.29 Qualifications for Members

The Historic Preservation Commission shall consist of at least three (3) members. The board members shall reside within the planning and development regulation jurisdiction and be appointed by the Board of Commissioners. Members shall serve without compensation, but they may be reimbursed for incidental expenses incurred in connection with official duties. All board members shall take an oath of office at the beginning of their term. A majority of the members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The commission may appoint advisory bodies and committees as appropriate.

2.30 Tenure

The tenure of office for Historic Preservation Commission members shall be three (3) and four (4) year staggered terms, at which time the Board of Commissioners may re-appoint the member for a consecutive term.

2.31 Rules of Procedure

A. The Historic Preservation Commission shall recommend Rules of Procedure for the conduct of its affairs, to be adopted by the Town Board of Commissioners.

B. Among other matters, the Rules of Procedure shall provide for the office of Chairperson and Vice Chairperson, whose term of office shall be of at least one (1) year, with eligibility for re-election.

C. A quorum for conduct of business of the Board shall be a majority of the appointed members.

D. The Rules of Procedure shall require the Board on an as needed basis and provide for the calling of special meetings as the need of the Board requires.

E. As required by NCGS 160D-308, the adopted Rules of Procedure for the board must be posted on the Town of Vass website.

2.32 Meetings

All meetings of the Board shall be open to the public and the Board shall cause notices to be given as required by NC general statutes.

2.33 Meeting Minutes

The Town Clerk shall cause minutes of its meetings to be maintained as a permanent public record. Such minutes shall record the attendance of its members, its findings, recommendations, and a summary of information, data and testimony presented to it.

2.34 General Powers and Duties

As provided for in NCGS 160D-942, as amended, the Historic Preservation Commission may have the following powers and duties as directed by the Board of Commissioners:

(1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.

(2) Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."

(3) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.

(4) Conduct an educational program regarding historic properties and districts within its jurisdiction.

(5) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.

(6) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks.

(7) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

2.35 Conflicts of Interest

Members of appointed boards shall not vote on any decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. If a conflict of interest exists, the member should recuse themselves from participating and voting.

Part 5. Duties of the Administrative Officer

2.28 Establishment of Position of Administrative Officer

The provisions of this Ordinance shall be administered by the Administrative Officer, who shall be appointed to office by the Mayor. The Administrative Officer may appoint a designee to carry out tasks as needed. The Administrative Officer or his/her officially designated deputy or assistant shall have the power to grant Zoning Compliance Permits, to make inspections of buildings or premises, revoke permits, and any other procedures necessary to carry out the enforcement of this Ordinance. In connection with the enforcement of this Ordinance, the Administrative Officer shall make all necessary determinations and interpretations as required by this Ordinance. Persons aggrieved by a decision or a determination made by the Administrative Officer may appeal that action to the Zoning Board of Adjustment as indicated in Article 4 (Appeals, Variances, and Interpretations).

2.28.1 Powers and Limitations of the Administrative Officer

If the proposed excavation, construction, moving, alteration or use of land as set forth in the application for a Zoning Compliance Permit are in conformity with the provisions of this Ordinance, the Administrative Officer shall issue a Zoning Compliance Permit, however,

1. Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any provision of this Ordinance;
2. Under no circumstances is the Administrative Officer permitted to grant exceptions to the actual meaning of any clause, standard, or regulation contained in this Ordinance to any

person making application to excavate, construct, move, alter, or use either buildings, structures, or land;

3. Under no circumstances is the Administrative Officer permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out assigned duties;
4. The Administrative Officer shall issue a permit when the imposed conditions of this Ordinance are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties;
5. The Administrative Officer shall revoke a Zoning Compliance Permit if it is found to be issued in violation of any of the provisions of this Ordinance, or if the conditions as stated on the Permit are not carried out;
6. The Administrative Officer shall issue a Stop Work Order pursuant to Article 5 (Enforcement) if it is determined that irreparable injury will occur if the alleged violation is not immediately terminated;
7. The Administrative Officer shall be responsible for the administration and enforcement of this Ordinance, including the issuance of any required permits and certificates as authorized by this Ordinance;
8. Administrative, technical and professional support to the Town Board of Commissioners, Planning Board, Zoning Board of Adjustment, and any advisory committee set up hereunder;
9. The preparation of written staff reports and recommendations on all proposed amendments to this Ordinance, applications of approval of Special Uses, applications for variances and appeals from orders, decisions, determinations and requirements made in enforcing this Ordinance;
10. Liaison with other Town and County departments, representatives of other local governmental units and units of the State of North Carolina, and of the United States;
11. The maintenance of data, maps, and other information necessary to discharge his/her responsibilities;
12. Provide appropriate services to encourage the participation of citizens of the Town of Vass in the discharge of its responsibilities;
13. Interpretations. The Administrative Officer is authorized to interpret the Official Zoning Map and to pass upon disputed questions of district boundary lines and similar questions. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

    a. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
    b. Boundaries indicated as approximately following lot lines, town limits, or extraterritorial boundary lines, shall be construed as following such lines, limits, or boundaries;
    c. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline, shall be construed as following such shorelines;
    d. Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map;

e. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment; and

14. Perform other duties as may be directed by the Town Board of Commissioners.

2.28.2 Conflicts of interest

No staff member shall make a final decision on an administrative decision if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to another staff person.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

Article 3, PERMITS, SITE PLANS, AND APPROVALS

3.1 Zoning Compliance and Special Use Permits

A. The use made of property may not be changed, clearing, grading, or excavation may not be commenced, and buildings or other structures may not be constructed, erected, moved, or altered, except in accordance with, and pursuant to, one (1) of the following permits:

1. A Zoning Compliance Permit issued by the Administrative Officer;
2. A Special Use Permit issued by the Town Board of Commissioners.

B. Zoning Compliance Permits, Special Use Permits, and Sign Permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in Section 3.6 (Amendments to and Modifications of Permits), all development shall occur strictly in accordance with such approved plans and applications.

C. A Zoning Compliance Permit, Special Use Permit, or Sign Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit issuing authority. The development approval must be made in writing in print or electronic form. If electronic form is used, it must be protected from further editing.

3.1.2 No Occupancy or Use Until Requirements Fulfilled

Issuance of a Zoning Compliance Permit or Special Use Permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a Building Permit) to commence work designed to construct, erect, or alter buildings or other structures. However, as provided in Sections 3.2.1 (Authorizing Use or Occupancy Before Completion of Development Under Zoning Compliance Permits), 3.3.13 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits), and 3.3.14 (Completing Developments In Phases), the intended use may not be commenced, and no building may be occupied, until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a Zoning Compliance or Special Use Permit have been complied with.

3.1.3 Who May Submit Permit Applications

A. Applications for Zoning Compliance, Special Use, or Sign Permits will be accepted only from persons having legal authority to take action in accordance with the permit.

B. The Administrative Officer may require an applicant to submit evidence of his/her authority to submit the application in accordance with Subsection A whenever there appears to be a reasonable basis for questioning this authority.

3.1.4 Applications to be Complete

A. All applications for Zoning Compliance, Special Use, or Sign Permits must be complete before the permit issuing authority is required to consider the application.

B. Subject to Subsection C, an application is complete when it contains all of the information that is necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.

C. It is recognized that each development is unique, and therefore the permit issuing authority may allow less information or may require more information to be submitted according to the needs of the particular case. For applications submitted to the Planning Board, Town Board of Commissioners, or Zoning Board of Adjustment, the applicant may rely in the first instance on the recommendations of the Administrative Officer as to whether more or less information than that set forth for the application should be submitted.

D. The Administrative Officer shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In cases where a minimal amount of information is necessary to enable the Administrative Officer to determine compliance with this Ordinance, such as applications for Zoning Compliance Permits to construct single-family and two-family houses, or applications for Sign Permits, the Administrative Officer shall develop standard forms that will expedite the submission of the necessary plans and other required information.

3.1.5 Staff Consultation Before Formal Application

To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application

consultation between the developer and the Administrative Officer is encouraged or required, as provided in this Article, before submitting an application for any permit or approval required under this Ordinance.

3.1.6 Staff Consultation After Application Submitted

A. Upon receipt of a formal application for a Zoning Compliance, Special Use, or Sign Permit, the Administrative Officer shall review the application and shall confer with the applicant to ensure that he/she understands the Administrative Officer's interpretation of the applicable requirements of this Ordinance, that he/she has submitted all of the information that he/she intends to submit, and that the application represents precisely and completely what he/she proposes to do.

B. If the application is for a Special Use Permit, the Administrative Officer shall place the application on the agenda of the Planning Board and Town Board of Commissioners when the applicant indicates that the application is as complete as he/she intends to make it. However, as provided in Section 3.3.9 (Recommendations on Special Use Permit Applications), if the Administrative Officer believes that the application is incomplete, he/she shall recommend that the application be denied on that basis.

3.2 Zoning Compliance Permits

A. A completed application form for a Zoning Compliance Permit shall be submitted to the Administrative Officer by filing a copy of the application with the Administrative Officer. Applications for Zoning Compliance Permits shall contain the following information:

1. A written application containing at least the following information:

   a. The name, address, and telephone number of the applicant;

   b. If the applicant is not the owner of the property in question, the name, address, and telephone number of the owner, and the legal relationship of the applicant to the owner that entitles the applicant to make the application. An application must be made by the landowner, lessee or person holding an option or contract to purchases or lease the land, or an authorized agent of the landowner;

   c. The date of the application;

   d. A succinct statement of the nature of the development proposed under the permit;

e. Identification of the property in question by street address, Parcel Identification Number (PIN) and/or Property Identification Number;

f. The zoning and watershed district in which the property lies;

g. The number of square feet in the lot where the development is to take place;

h. The gross floor area of all existing and proposed buildings located on the lot where the development is to take place;

i. If the proposed development is a two-family or multi-family residential development, the number of one-, two-, three-, or four-bedroom dwelling units proposed for construction;

j. If applicable, the amount of impervious surface coverage permitted on the lot in square footage and percentage (%) notation, the amount of existing impervious surfaces located on the lot in square footage and percentage (%) notation, the amount of proposed impervious surface coverage in square footage and percentage (%) notation, and the total amount of impervious surface coverage to be located on the lot (in square footage and percentage (%) notation) once development is complete;

k. A completed site plan (if applicable) meeting the requirements of Section 3.9 (Site Plans);

l. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development, to use it in the manner requested, or is the duly appointed agent of such person;

m. Documentation from the appropriate agencies (Moore County Environmental Health, NCDOT, public water/sewer provider) that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided;

n. Any required local, State, or Federal permits;

o. Legal documentation establishing homeowners associations or other legal entities responsible for control over required common areas and facilities;

p. Bonds, letters of credit, or other surety devices;

q. Written evidence of permission to use satellite parking spaces under the control of a person other than the developer when such spaces are allowed by this Ordinance;

r. Written evidence of good faith efforts to acquire satellite parking when such conditions warrant;

s. Verification that industrial uses will meet the performance standards set forth in Article 11 (Non-Residential Performance Standards). Such verification shall be made by a registered, licensed engineer or other qualified expert unless it is utterly apparent from the nature of the proposed development that such expert verification is unnecessary;

t. Time schedules for the completion of phases in staged development;

B. The Administrative Officer shall issue the Zoning Compliance Permit unless he/she finds, after reviewing the application and consulting with the applicant as provided in Section 3.1.6 (Staff Consultation After Application Submitted), that:

1. The requested permit is not within his/her jurisdiction according to the Table of Permitted Uses, or

2. The application is incomplete, or

3. If completed as proposed in the application, the development will not comply with one (1) or more requirements of this Ordinance (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article 6 (Nonconforming Situations).

3.2.1 Authorizing Use or Occupancy Before Completion of Development Under Zoning Compliance Permits

In cases when, because of weather conditions or other factors beyond the control of the Zoning Compliance Permit recipient (exclusive of financial hardship), it would be unreasonable to require the Zoning Compliance Permit recipient to comply with all of the requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the Administrative Officer may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Administrative Officer to ensure that all of the requirements of this Ordinance will be fulfilled within a reasonable period (not to exceed twelve (12) months) determined by the Administrative Officer, and that the Building Inspector certifies that the occupancy or use will not violate the requirements of the Building Code.

3.3 Special Use Permits

A. An application for a Special Use Permit shall be submitted to the Town Board of Commissioners by filing a copy of the application with the Administrative Officer.

B. Subject to Subsection C, the Town Board of Commissioners shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

1. The requested permit is not within its jurisdiction according to the Table of Permitted Uses, or

2. The application is incomplete, or

3. If completed as proposed in the application, the development will not comply with one (1) or more requirements of this Ordinance (not including those the applicant is not required to comply with under circumstances specified in Article 6 (Nonconforming Situations), or

C. Even if the Town Board finds the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

1. Will materially endanger the public health or safety, or

2. Will substantially injure the value of adjoining or abutting property, or

3. Will not be in harmony with the area in which it is to be located, or

4. Will not be in general conformity with the Land Use Development Plan, Thoroughfare Plan, or other plans officially adopted by the Town Board of Commissioners.

3.3.1 Applications and Requests to be Heard Expeditiously

A. Recognizing that inordinate delays in acting upon applications may impose unnecessary costs on the applicant, the Town shall make every reasonable effort to process permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this Ordinance.

B. Town Board of Commissioners shall hear and decide all Special Use Permit requests as expeditiously as possible, consistent with the need to follow regular established agenda procedures, provide notice in accordance with Section 3.3.4

(Notice of Hearing), obtain the necessary information to make sound decisions and otherwise comply with quasi-judicial procedures as set forth in Section 4.1.

3.3.2 Burden of Presenting Evidence; Burden of Persuasion

A. The burden of presenting a complete application (as described in Section 3.1.4 (Applications to be Complete) to the Town Board shall be upon the applicant. However, unless the Town Board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at the meeting or at a continuation hearing), the application shall be presumed to be complete.

B. Once a completed application has been submitted, the burden of presenting evidence to the Town Board sufficient to lead it to conclude that the application should be denied for any reasons stated in Section 3.3 (Special Use Permits), Subsections B (1), B (3), or C shall be upon the party or parties urging this position, unless the information presented by the applicant in his/her application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

C. The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Section 3.3 (Special Use Permits), Subsection C (4) rests on the party or parties urging that the requested permit should be denied.

3.3.3 Hearing Required on Special Use Permits

Before making a decision on a Special Use Permit, or a petition from the Administrative Officer to revoke a Special Use Permit, the Town Board of Commissioners shall hold a hearing on the application. The Board of Commissioners shall follow the quasi-judicial procedures set forth in Section 4.1.

3.3.4 Notice of Hearing

The Administrative Officer shall give notice of any hearing required by Section 3.3.3 (Hearing Required on Special Use Permits) as follows:

1. Notice shall be given to the applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than ten (10) days before the hearing;

2. Notice shall be given to neighboring property owners by mailing a written notice not later than ten (10) days before the hearing to those persons who have listed for taxation real property

any portion of which is located adjacent to, and across the street from, the lot that is the subject of the application;

3. Notice shall be given to other potentially interested persons by publishing a notice two (2) times in a newspaper having general circulation in the area. The first of the two notices must be published at least ten (10) days, but not more than twenty-five (25) days, before the hearing. The second notice must appear in a separate calendar week. The day of publication is not counted in computing these times, but the day of the hearing is included.

4. The notice required by this Section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application, and give a brief description of the action requested or proposed.

3.3.5 Modification of Application at Hearing

A. In response to questions or comments by persons appearing at the hearing, or to suggestions or recommendations by the Town Board of Commissioners, the applicant may agree to modify his/her application, including the plans and specifications submitted.

B. Unless such modifications are so substantial or extensive that the hearing board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Town Board of Commissioners may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Administrative Officer.

3.3.6 Record

A. A recording shall be made of all hearings, and such recordings shall be kept for at least two (2) years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

B. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence, shall be made a part of the record of the proceedings and shall be kept by the Town in accordance with the Municipal Records Retention and Disposition Schedule as maintained by the North Carolina Department of Cultural Resources, Division of Archives and Records.

3.3.7 Written Decision and Judicial Review

Written decisions and judicial review for all hearings for appeals and variances shall conform to Section 4.1, “Quasi-Judicial Procedure and Judicial Review.”

3.3.8 Recommendations on Special Use Permit Applications

A. When presented to the Board of Commissioners, the application shall be accompanied by a report setting forth the Administrative Officer's proposed findings concerning the application's compliance with Section 3.1.4 (Applications to be Complete) and other requirements of this Ordinance, as well as any staff recommendations for additional requirements to be imposed by the Town Board of Commissioners. If the Administrative Officer's report proposes a finding or conclusion that the application fails to comply with Section 3.1.4 (Applications to be Complete), or any other requirement of this Ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

3.3.9 Required Vote on Special Use Permits

A. Before granting a Special Use Permit, the Town Board of Commissioners must vote and vote affirmatively by majority on the supplemental requirements for the specific use as found in Article 12 (Supplemental Requirements for Specific Uses), the three (3) findings listed in Section 3.3 (Special Use Permits), Subsection B, and the four (4) required findings stated in Section 3.3 (Special Use Permits), Subsection C. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section 3.3 (Special Use Permits), Subsection C, shall include a statement of the specific reasons or findings of fact supporting such motion, which may be a wholesale adoption of potential findings outlined by the applicant or staff on a report that was entered in to the record.

B. A motion to deny a Special Use Permit may be made on the basis that any one (1) or more of the supplemental requirements for the specific use as found in Article 12 (Supplemental Requirements for Specific Uses), the three (3) findings listed in Section 3.3 (Special Use Permits), Subsection B, or of the four (4) criteria set forth in Section 3.3 (Special Use Permits), Subsection C, are not satisfied, or that the application is incomplete. Such a motion shall include a statement of the specific reasons or findings of fact that support it.

C. In voting on the approval or denial of a Special Use Permit, vacant positions on the Town Board and members who are disqualified from voting due to a conflict of interest shall not be considered "members of the Board" for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

D. A member of the Town Board shall not participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself/herself, the remaining members shall by majority vote rule on the objection.

3.3.10 Town Board of Commissioners Action on Special Use Permits

In considering whether to approve an application for a Special Use Permit, the Town Board of Commissioners shall proceed according to the following format:

1. The Town Board of Commissioners shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirements with respect to which the application is incomplete), then this shall be taken as an affirmative finding by the Town Board of Commissioners that the application is complete.

2. The Town Board of Commissioners shall consider whether the application complies with all the applicable requirements of this Ordinance. If a motion to this effect passes, the Town Board of Commissioners need not make further findings concerning such requirements. If such a motion fails or is not made, then a motion shall be made that the application be found not in compliance with one (1) or more of the requirements of this Ordinance. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the Town Board of Commissioners to be unsatisfied through this process.

3. If the Town Board of Commissioners concludes that the application fails to comply with one (1) or more requirements of this Ordinance, the application shall be denied. If the Town Board of Commissioners concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one (1) or more of the reasons set forth in Section 3.3 (Special Use Permits), Subsection C. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

3.3.11 Additional Requirements on Special Use Permits

A. In granting a Special Use Permit, the Town Board of Commissioners shall make the following findings, based on the evidence and testimony received at the quasi-judicial public hearing, that the development in its proposed location:

   1. Will not endanger the public health or safety,

   2. Will not substantially injure the value of adjoining or abutting property,

   3. Will be in harmony with the area in which it is located, and

   4. Will be in conformity with the Comprehensive Land Use Plan, or other plans officially adopted by the Town Board of Commissioners.

B. Without limiting the foregoing, the Board may attach to a permit a condition limiting the permit to a specific duration.

C. All additional conditions or requirements shall be entered on the permit.

D. All additional conditions or requirements to protect the public health, safety and general welfare authorized by this Section are enforceable in the same manner and in the same extent as any other applicable requirement of this Ordinance. All such conditions shall be stated on the form approving the application. Conditions may be stricter than any requirement or limitation stated elsewhere in this Ordinance for the proposed use and may include, but are not limited to: limitations to the size, bulk, and location of structures, requirements for landscaping signs, and lighting, adequate site ingress and egress, open space; hours of hours of operations; and mitigation of environmental impacts.

E. A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Section 3.3 (Special Use Permits), Subsection C.

F. A Special Use Permit is effective upon filing the written decision with the clerk to the Board. The applicant or land owner must consent in writing to conditions related to a special use permit. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The clerk to the Board of commissioners shall certify that proper notice has been made.

3.3.12 Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits

A. In cases when, because of weather conditions or other factors beyond the control of the permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Ordinance before commencing the intended use of the property, or occupancy of any buildings, the Board may authorize the commencement of the intended use, or the occupancy of buildings, if the permit recipient provides a performance bond or other security satisfactory to the Board to ensure that all of these requirements will be fulfilled within a reasonable time period (not to exceed twelve (12) months), and that the Building Inspector certifies that the occupancy or use will not violate the requirements of the Building Code.

B. When the Board imposes additional requirements upon the permit recipient in accordance with Section 3.3.12 (Additional Requirements on Special Use Permits), or when the developer proposes in plans submitted, to install amenities beyond those required by this Ordinance, the Board may authorize the permittee to commence the intended use of the property, or to occupy any building, before the additional requirements are fulfilled or the amenities installed, if it specifies a date by which, or a schedule according to which, such requirements must be met

or each amenity installed, and if it concludes that compliance will be ensured as the result of any one (1) or more of the following:

1. A performance bond or other security satisfactory to the Board is furnished;
2. A condition is imposed establishing an automatic date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
3. The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 5.6 (Remedies; Penalties; Enforcement Action) and Section 5.6.1 (Permit Revocation).

3.3.13 Completing Developments in Phases

A. If a development is constructed in phases or stages in accordance with this Section, then, subject to Subsection C, the provisions of Section 3.1.2 (No Occupancy or Use Until Requirements Fulfilled), Section 3.2.1 (Authorized Use or Occupancy Before Completion of Development Under Zoning Compliance Permits), and Section 3.3.13 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits) (exceptions to Section 3.1.2 (No Occupancy or Use Until Requirements Fulfilled)) shall apply to each phase as if it were the entire development.

B. As a prerequisite to taking advantage of the provisions of Subsection A, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Ordinance that will be satisfied with respect to each phase or stage.

C. If the development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his/her application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one (1) or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit issuing authority, no land may be used, and no building may be occupied, except in accordance with the schedule approved as part of the permit, provided that:

1. If the improvement is one required by this Ordinance, then the developer may utilize the provisions of Section 3.2.1 (Authorizing Use or Occupancy Before Completion of Development Under Zoning Compliance Permits), or Section 3.3.13 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits), Subsections A or B;

2. If the improvement is an amenity not required by this Ordinance, or is provided in response to a condition imposed by the Board, then the developer may utilize the provisions of Section 3.3.13 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits), Subsection B.

3.4 Expiration of Permits

A. Zoning Compliance and Sign Permits shall expire automatically if, within three hundred sixty-five (365) calendar days after the issuance of such permits:

1. The use authorized by such permits has not commenced, in circumstances where no construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or

2. Less than ten percent (10%) of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permit has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase.

B. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of three hundred sixty-five (365) calendar, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 3.5 (Effect of Permit on Successors and Assigns).

C. The permit issuing authority may extend, for a period of up to one hundred eighty (180) calendar days, the date when a permit would otherwise expire pursuant to Subsections A or B if it concludes that:

1. The permit has not yet expired,

2. The permit recipient has proceeded with due diligence and in good faith, and

3. Conditions have not changed so substantially as to warrant a new application.

Successive extensions may be granted for periods up to six (6) months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

D. For purposes of this Section, a Special Use Permit is issued when the Town Board of Commissioners votes to approve the application and

issue the permit. A permit within the jurisdiction of the Administrative Officer is issued when the earlier of the following takes place:

1. A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed by certified mail return receipt to the permit applicant; or

2. The Administrative Officer notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required under Section 3.1 (Zoning Compliance and Special Use Permits).

E. Notwithstanding any of the provisions of Article 6 (Nonconforming Situations), this Section shall be applicable to permits issued prior to the date this Section becomes effective.

3.5 Effect of Permits on Successors and Assigns

A. Zoning Compliance, Special Use, and Sign Permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land, structures, or any portion thereof, covered under a permit continues to be used for the purposes for which the permit was granted, then:

1. No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and conditions of that permit, and

2. The terms and requirements of the permit apply to and restrict the use of the land or structures covered under the permit, not only in respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for, or in connection with, purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain all interest in the property had actual or record notice (as provide in Subsection B) of the existence of the permit at the time they acquired their interest.

B. Whenever a Special Use Permit is issued, nothing authorized by the permit may be done until the record owner of the property returns a copy of the recorded permit to the Administrative Officer indicating it has been recorded in the Moore County Register of Deeds Office and indexed under the record owner’s name as grantor.

Alternatively, the Town of Vass may record the Special Use Permit and invoice the applicant for reimbursement of the recording fee.

3.6 Amendments to and Modifications of Permits

A. Insignificant deviations from the permit (including approved plans) issued by the Town Board of Commissioners or the Administrative Officer are permissible and the Administrative Officer may authorize such insignificant deviations. A deviation is insignificant if it has no impact on the neighboring properties, the general public, or those intended to occupy or use the proposed development.

B. Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this Section, minor design modifications or changes are those that have no impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

C. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Town Board of Commissioners, new conditions may be imposed in accordance with Section 3.3.12 (Additional Requirements on Special Use Permits), but the applicant retains the right to reject such additional conditions by withdrawing his/her request for an amendment and may then proceed in accordance with the previously issued permit.

D. The Administrative Officer shall determine whether amendments to, and modifications of, permits fall within the categories set forth in Subsections A, B, and C above.

E. A developer requesting approval of changes shall submit a written request for such approval to the Administrative Officer, and that request shall identify the changes. Approval of all changes must be given in writing.

3.7 Reconsideration of Board Action

A. Whenever the Town Board of Commissioners disapproves a Special Use Permit application, or the Zoning Board of Adjustment disapproves an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

1. Circumstances affecting the property that is the subject of the application have changed, or

2. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Administrative Officer within thirty (30) days after the date of the decision. However, such a request does not extend the period within which an appeal must be taken.

B. Notwithstanding Subsection A, the Town Board of Commissioners or Zoning Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some way from the one previously considered.

3.8 Maintenance of Common Areas, Improvements, and Facilities

The recipients of any Zoning Compliance, Special Use, or Sign Permit, or his/her successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

3.9 Site Plans

A. As required by Section 3.1 (Zoning Compliance and Special Use Permits), a Zoning Compliance or Special Use Permit must be issued before any new site development, building, structure, or vehicular use area may be erected, constructed or used. Site plan approval is required for all Zoning Compliance and Special Use Permits with the following exceptions:

1. Any development of a single-family dwelling on a lot, or any uses accessory thereto;

2. Any sign;

3. Any development that, in the opinion of the Administrative Officer, does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, increase impervious above a previously approved Special Intensity Allocation or will require approval of a Special Intensity Allocation, buffering, or lighting, provided such existing site elements comply with the applicable provisions of this Ordinance. In such cases, the applicant may be required to apply for a non-residential zoning compliance permit and Zoning Use Verification, but not full site plan review; or

3.9.1 Professional Design and Certification

Site plans, including major and minor site plans, shall be prepared by a registered, licensed engineer, landscape architect, architect, or professional land surveyor.

3.9.2 Submittal Requirements

The applicant shall submit to the Administrative Officer:

1. Eight (8) copies of the site plan prepared according to Section 3.9.1 (Professional Design and Certification) and Section 3.9.3 (Specifications for Plan Preparation). Additional copies may be required depending on the nature and location of the proposed development;

2. A Site Plan application form;

3. A copy of the Moore County tax map with the subject property identified;

4. Legal documentation establishing entities responsible for control over common areas and facilities to be approved by the Town Attorney at the applicant's expense.

3.9.3 Specifications for Plan Preparation

Each site plan shall be drawn at a scale adequate to show required detail and shall contain the following information (the Administrative Officer will determine which items are applicable for sufficiency).

1. The boundary of the lot(s) to be developed labeled with bearings and distances,

2. The name and address of the applicant and the property owner,

3. Name of the project, vicinity map, north arrow, scale, Parcel Identification Number (PIN), Parcel Identification number (PARID), date of plan preparation, and subsequent revision dates,

4. Zoning of the property to be developed, and the zoning and existing land use for all properties adjacent to, and across the street from, the subject property,

5. Water supply watershed classification,

6. A notation that the property is or is not located in a watershed 10%/70% district,

7. Maximum and proposed impervious surface and required stream buffers,

8. Front, side, and rear building setbacks,

9. Location of all existing and proposed buildings and structures labeled according to floor area, building height and function, and proposed finished floor elevation,

10. Vehicular use areas including existing and proposed streets and access drives, off-street parking and loading, and entry/exit points of adjacent parcels,

11. Overhead and underground utilities with accompanying easements and storm drainage facilities/easements (including septic tanks and wastewater disposal fields, wells, fire hydrants, irrigation, and security lights),

12. Solid waste disposal facilities,

13. All freestanding and wall-mounted signs, unless they will be applied for separately,

14. A landscape plan,

15. Existing contour lines (dashed) and proposed contours (solid) at five (5) foot intervals with ten (10) foot contours bold. Where site conditions warrant, two (2) foot contours may be required,

16. Retaining walls, tree wells, or rip rap as part of the grading plan,

17. Streams, stream buffers, ponds, wetlands, drainage ditches, swamps, floodway and floodplain boundaries,

18. Phase lines and numbers if the development is to be phased or staged,

19. Names of all property owners adjacent to, and across the street from, the proposed project, and

20. A copy of an approved septic system permit issued by the Moore County Environmental Health Department, or certification of service availability letter from Moore County Public Utilities, shall be submitted with the application.

21. Additional information may be required based on the site location and the type of development proposed.

22. Building elevations (front, sides and rear), type of material(s) on exterior and colors.

23. A copy of an NCDEQ-approved Sedimentation and Erosion Control Plan.

24. Transportation Impact Analysis (TIA).

    a. A TIA shall be required with site plan submittal for the following:

i. Developments anticipated to generate 100 or more vehicle trips during any peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; or

ii. Developments that are part of a larger development that, when considered cumulatively, will generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; or

iii. Developments located on a roadway that has a demonstrated transportation capacity issue, as determined by the Board of Commissioners; or

iv. Developments where there are likely to be significant changes to adjacent development traffic patterns, as determined by the Board of Commissioners, as a result of the proposed development.

b. The Administrator may waive the requirement for an applicant submitting a Minor Site Plan to demonstrate that the proposed development does not meet the threshold for a TIA when the Administrator determines that the development is of such limited scale and impact that a TIA should not reasonably be required.

3.9.4 Site Plan Review

A. Upon submission, the Administrative Officer shall review the site plan for completeness in form and content according to Section 3.9.3 (Specifications for Plan Preparation). If an application is incomplete, it shall be returned to the applicant within ten (10) working days. When a complete application has been accepted, the plan, or set of plans, will be distributed to applicable agencies or other departments for review and comment.

B. At the same time, the Administrative Officer shall review the plan(s) based on, but not limited to, the following general criteria:

1. Compliance with all applicable Town ordinances,

2. Extent and intensity of impacts to the surrounding area,

3. Respect for existing site conditions, including slope, vegetation, drainage patterns, etc.

4. Efficient use of the land to minimize disturbance, grading, and to conserve energy,

5. Safe and efficient vehicular and pedestrian circulation, and

6. Logical placement of structures and other site functions.

Where an application is found to be inconsistent with the above criteria, the Administrative Officer may recommend changes to the site plan.

C. Once the elements of review for the site plan have been generally approved, the administrative Officer will refer major site plan applications to the Board of Commissioners. The Administrative Officer shall have final approval authority for minor site plan applications. Upon determining that a minor site plan complies with all applicable requirements of this Ordinance and all applicable rules, regulations, and ordinances enforced by other agencies and departments, the Administrative Officer shall approve the application. No review or approval by the Planning Board, Board of Commissioners, or any other board shall be required. Site plans, whether Minor or Major, but excluding Major Subdivisions, that are submitted following approval of a Conditional Zoning district in which a site plan was approved as part of the Conditional Zoning approval, shall not be subject to review by the Board of Commissioners.

D. Following the review of the major site plan by the Board of Commissioners, the Administrative Officer shall take final action on the application. Such action shall be one (1) of the following:

1. Approval,

2. Denial.

E. Failure to meet the criteria for site plan approval and/or to address agency comments solicited during site plan review will result in denial of the application.

E. If a plan is approved subject to conditions, no Zoning Compliance Permit or subsequent Building Permit shall be issued until all conditions of approval have been met to the satisfaction of the Town of Vass.

F. Site plan approval does not establish a vested right to develop the property should zoning regulations change subsequent to plan approval unless a Zoning Compliance Permit for the proposed use has been issued, or a zoning vested right for the site plan is approved as provided in Section 3.9.5 (Zoning Vested Right for Site Plans).

3.9.5 Zoning Vested Right for Site Plans

At the option of the applicant, a site plan may be vested for a period of not less than two (2) nor more than five (5) years. To become vested, a site plan must be approved by the Town Board of Commissioners as a Special Use Permit. An approved site-specific development plan shall contain the following statement:

Approval of this site plan establishes a zoning vested right under NCGS 160D-108.1 (Vested Rights- site-specific development plans). Unless terminated at an earlier date, the zoning vested right shall be valid until _____, 20___.

3.9.6 Improvements

Where applicable and/or required, as a guarantee of improvements required as a condition of site plan approval, the developer shall provide the Town of Vass with a security bond, escrow agreement, or irrevocable letter of credit by an approved institution. The guarantee shall be effective for twelve (12) months and shall include the cost of the improvements plus fifty percent (50%), and shall also be approved by the Town Attorney. If a guarantee is not submitted, the developer must install all required improvements to the satisfaction of the Town prior to the issuance of a Certificate of Occupancy and/or any additional zoning compliance permits.

Article 4, QUASI-JUDICIAL PROCEDURE, APPEALS AND VARIANCES

4.1 Quasi-Judicial Decisions and Judicial Review

A. Action by the Board of Adjustment on Appeals and Variances and the Town Board on Special Use Permits shall be made by quasi-judicial decision and the provisions of this section shall apply to all quasi-judicial proceedings before the Board of Commissioners and the Board of Adjustment.

B. Each board shall determine contested facts and make its decision within a reasonable time.

C. Administrative staff may provide the Board with a packet of information regarding the case as long as the applicant and property owner receive the same materials at the same time. These administrative materials must be presented at the hearing and made a part of the record.

D. The Hearing.

The evidentiary hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present competent, material, and substantial evidence and arguments. In a quasi-judicial hearing, all persons presenting information and/or wishing to speak must do so under oath.

The chair of each board may place reasonable and equitable limitations on the presentation of evidence and arguments and may limit unduly repetitious or irrelevant testimony. Each member of the board may ask questions of persons who testify. Each board shall ensure adequate time is provided to enter all relevant evidence into the record.

The board may continue the hearing, without additional notice, until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. If a quorum is not present at the meeting, the hearing is automatically continued to the next regularly scheduled meeting.

E. Evidence.

1. All persons who intend to present evidence to the Town Board of Commissioners, shall be sworn in at the hearing. All parties with standing must be allowed to participate in the hearing, including cross-examining witnesses, objecting evidence, and making legal arguments.

2. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Note that opinion testimony (i.e. property value, traffic impact, etc.) from a lay witness shall not be considered competent evidence.

3. All findings and conclusions necessary to the issuance or denial of the requested permit (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be presented whenever reasonably available.

4. The Board chair must rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling may be appealed to the full board.

F. Each quasi-judicial decision shall be reduced to writing and reflect the board's findings of facts and their application to the applicable standards.

G. The written decision shall be signed by the chair or other duly authorized member of the board. Any conditions tied to Special Use Permits must be consented to in writing by the applicant and/or property owner.

H. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The clerk to the board of commissioners or board of adjustment, as appropriate, shall certify that proper notice has been made.

I. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-406 and 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subsection G. of this section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

4.2 Appeals

The Board of Adjustment shall hear and decide appeals from decisions of the Administrative Officer charged with enforcement of the zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

A. Any person who has standing under G.S. 160D-1402 may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the town clerk. The notice of appeal shall state the grounds for the appeal.

B. The Administrative Officer shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

C. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt

from any source of actual or constructive notice of the decision within which to file an appeal. If notice is sent by mail, it may be presumed that the notice was received on the third business day after it was sent.

D. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Notice of Public Hearing" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.

E. The Administrative Officer shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

F. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment 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 ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations, the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

G. Subject to the provisions of Subsection F. of this Section, the board of adjustment shall hear and decide the appeal within a reasonable time.

H. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment 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 board shall have all the powers of the official who made the decision.

I. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution at any time prior to, during or after the hearing.

4.3 Variances

A. The Board of Adjustment shall hear and decide requests for variances.

B. An application for a variance shall be submitted to the Zoning Board of Adjustment by filing a copy of the application with the Administrative Officer. Applications shall be handled in the same manner as applications for Special Use Permits in conformity with the provisions of Sections 3.1.3 (Who May Submit Applications), 3.1.4 (Applications to be Complete), and 3.3.13 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits).

C. When unnecessary hardships would result from carrying out the strict letter of the ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

D. In granting variances, the Zoning Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties. Such conditions must be reasonably related to the condition or circumstance that gives rise to the need for a variance.

E. A variance may be issued for an indefinite duration or for a specified duration only.

F. The nature of the variance and any conditions attached to it shall be entered on the face of the Zoning Compliance Permit, or the Zoning Compliance Permit may simply note the issuance of the variance and refer to the written record of the variance for further information.

All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

G. No change in permitted uses may be authorized by variance.

4.4 Requests to be Heard Expeditiously

The Zoning Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regular established agenda procedures, provide notice in accordance with Section 4.6 (Notice of Hearing), and obtain the necessary information to make sound decisions.

4.5 Hearing Required on Appeals and Requests for Variances

Before making a decision on an appeal or a request for a variance, the Zoning Board of Adjustment shall hold a hearing. The hearing shall conform to the procedures specified in Section 4.1 (Quasi-Judicial Decisions and Judicial Review).

4.6 Notice of Hearing

A. The Administrative Officer shall give notice of any hearing required by Section 4.5 (Hearing Required on Appeals and Applications) in accordance with Section 2.3.5 (Notice of Hearing).

B. The notice required by this Section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

4.7 Burden of Proof in Appeals and Variances

A. When an appeal is taken to the Zoning Board of Adjustment in accordance with Section 4.2 (Appeals), the Administrative Officer shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and arguments to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

B. The burden of presenting evidence sufficient to allow the Zoning Board of Adjustment to reach the conclusions set forth in Section 4.3 (Variances), Subsection B, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

4.8 Board Action on Appeals and Variances

A. **Appeals.** With respect to appeals, a motion to reverse, affirm, or modify the order, requirements, decision, or determination appealed from shall include a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive a majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order.

B. **Variances.**

1. The Board may approve a variance by a four-fifths (4/5) majority vote only. Before granting a variance, the Board must take a separate vote and vote affirmatively by four-fifths (4/5) majority on each of the four (4) required findings stated in Section 4.3 (Variances), Subsection B. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Section 4.3 (Variances), Subsection B, shall include a statement of the specific reasons or findings of fact supporting such motion.

2. A motion to deny a variance may be made on the basis that any one (1) or more of the four (4) criteria set forth in Section 4.3 (Variances), Subsection B, are not satisfied or that the application is incomplete. Such a motion shall include a statement of the specific reasons or findings of fact that support it.

3. For the purposes of this Section, vacant positions on the Board and members who are disqualified from voting due to a conflict of interest shall not be considered “members of the Board” if there are no qualified alternates available to take the place of such members.

4.9 Modification of Application at Hearing

A. In response to questions or comments by persons appearing at the hearing, or to suggestions or recommendations by the Zoning Board of Adjustment, the applicant may agree to modify his/her application, including the plans and specifications submitted.

B. Unless such modifications are so substantial or extensive that the hearing board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Zoning Board of Adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Administrative Officer.

4.10 Record

A. A tape recording shall be made of all hearings required by Section 4.5 (Hearing Required on Appeals and Request for Variances), and such recordings shall be kept for at least two (2) years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

B. All documentary evidence presented at a hearing as well as all other types of physical evidence, shall be made a part of the record of the proceedings and shall be kept by the Town in accordance with the Municipal Records Retention and Disposition Schedule as maintained by the North Carolina Department of Cultural Resources, Division of Archives and Records.

4.11 Judicial Review

Judicial review for all hearings for appeals and variances shall conform to Section 4.1 (Quasi-Judicial Decisions and Judicial Review).

Article 5, ENFORCEMENT

5.1 Violations

It is unlawful and a violation of this Ordinance to establish, create, expand, occupy, or maintain any use, land development activity, or structure, including, but not limited to, signs and buildings, that violates or is inconsistent with any provision of this Ordinance or any order, approval, or authorization issued pursuant to this Ordinance. Approvals and authorizations include, but are not limited to, Special Use Permits, Sign Permits, Building Permits, Zoning Compliance Permits, Certificates of Occupancy, Variances, development plans, site plans, landscape plans, and conditions of such permits, variances, and plans. It is also a violation to engage in any construction, land development activity, or use, without all approvals and authorizations required by this Ordinance.

5.2 Violators

A. Violators include, but are not limited to, any person(s) who owns, leases, occupies, manages, or builds any structure or land development activity in violation of this Ordinance, and any person(s) who owns, leases, or occupies a use in violation of this Ordinance. A violation may be charged against more than one (1) violator. For the purpose of this Article, the term “person” is defined to include, but not be limited to, any individual, group of individuals, or any corporation, partnership, association, company, or business, trust, joint venture, or other legal entity.

B. In addition, one (1) or more of the following persons may be held responsible for a violation of this Ordinance, and be subject to the remedies and penalties provided in this Article:

   1. An owner of the property on which the violation of this Ordinance occurs;

   2. Any tenant or occupant of the property who has control over, or responsibility for, its use or development, or

   3. Any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance.

5.3 Responsibility

The Administrative Officer shall enforce this Ordinance and the remedies authorized under this Article or as directed by the Town Board of Commissioners.

5.4 Complaints

When the Administrative Officer receives a complaint alleging a violation of this Ordinance, he/she shall investigate the complaint within fifteen (15) working days of the filing of such complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

5.5 Enforcement Procedures

5.5.1 Inspections and Investigations

A program of inspection and investigations to determine compliance with this Ordinance and orders, plans, permits, certificates, and authorizations issued under this Ordinance, is hereby authorized.

5.5.2 Initial Notice of Violation

A. On determining that a violation exists, the Administrative Officer may, whenever possible, make contact with the violator either in person or via telephone to discuss the violation. The Administrative Officer shall then give the responsible person(s), including the applicant and the property owner if different, written notice of the violation, either in person, by regular mail, or electronic delivery (email), or by certified or registered mail, return receipt requested. When service is made by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the notice by certified mail is unclaimed or refused, but the notice by regular mail is not returned by the post office within ten (10) days after the mailing, provided that a notice of violation is posted in a conspicuous place on the premises affected. The Administrative Officer must certify the manner of delivery for the file.

   b) The notice shall describe the nature of the violation and its location, state the actions necessary to correct the violation, and invite the alleged violator to meet with the Administrative Officer to discuss the violation and how it may be corrected. The Administrative Officer may provide the alleged violator additional notices of violation.

C. If inspections are made on the property, the Administrative Officer(s) shall enter the premises during reasonable hours and upon presenting credentials. Inspection of areas not open to the public can only be made with consent of the property owner or with an administrative search warrant.

D. This notice is an administrative determination subject to appeal as provided in Article 4 (Appeals, Variances, and Interpretations) of this Ordinance.

E. Each day that a violation continues shall be a separate and distinct offense.

F. Revocation of a development permit shall follow the same process as was used for the approval.

5.5.3 Final Notice of Violation; Corrective Order

A. The Administrative Officer's final written notice of violation (which may be the initial notice) shall also order correction of the violation, specify a reasonable time period in which the violation must be corrected, state the remedies and penalties authorized by this Article the Administrative Officer may pursue if the violation is not corrected within the specified time limit, and state that the correction order may be appealed to the Zoning Board of Adjustment if the correction order is the initial notice. The final written notice of violation shall be served upon the responsible person(s) either in person, by regular mail, or by certified or registered mail, return receipt requested, or by electronic delivery (email). When service is made by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the notice by certified mail is unclaimed or refused, but the notice by regular mail is not returned by the post office within ten (10) days after mailing, provided that a final notice of violation is posted in a conspicuous place on the premises affected.

B. A notice of new violation is not required where a notice of a violation of the same kind has been issued to the same violator at the same property within the previous two (2) years. In such cases, the violator may be charged with a continuing violation without further notice, as provided in Section 5.7.4 (Continuing Violations). A notice is also not required where action is taken under Sections 5.6.1 (Permit Revocation), 5.6.2 (Permit Denial or Conditioning), and 5.6.5 (Stop Work Order).

5.5.4 Appeal to Zoning Board of Adjustment

Any person aggrieved by the Administrative Officer's determination of a violation or a correction order may appeal that determination or order to the Zoning Board of Adjustment in accord with the provisions of Article 4 (Quasi-Judicial Procedure, Appeals and Variances) of this Ordinance, including payment of the appropriate fee. If there is no appeal, the Administrative Officer's determination of the nature and degree of the violation are final.

5.5.5 Failure to Comply with Notice

If the violator does not comply with a notice of violation, correction order, or Stop Work Order, that has not been appealed, or with a final decision of the Zoning Board of Adjustment, the violator shall be subject to enforcement action as prescribed by State law or by this Ordinance.

5.5.6 Extension of Time Limit to Correct Violation

The recipient of an initial notice of violation, correction order, or Stop Work Order, or the owner of the property on which the violation occurs, may, within thirty (30) days of the receipt or posting of the initial notice of violation or correction order, whichever is earlier, submit to the Administrative Officer, a written request for extension of the specified time limit for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit, for reasons beyond the control of the person requesting the extension, the Administrative Officer may extend the time limit as reasonably necessary to allow timely correction of the violation. In cases where an appeal of the notice of violation has been properly filed with the Zoning Board of Adjustment, the thirty (30) day time period, if granted by the Administrative Officer, shall commence upon receipt of the notice of Zoning Board of Adjustment decision concerning the violation or correction order.

5.5.7 Enforcement Action After Time Limit to Correct Violation

Following the time limit for correction of the violation, including any stay or extension thereof, the Administrative Officer shall determine whether the violation has been corrected. If the violation has been corrected, the Administrative Officer shall take no further action against the alleged violator. If the violation has not been corrected, the Administrative Officer may act to enforce the requirements of this Ordinance as provided in this Article.

5.5.8 Emergency Enforcement Without Notice

If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Administrative Officer may seek immediate enforcement without prior written notice through any of the remedies or penalties authorized in this Article.

5.6 Remedies; Penalties; Enforcement Action

The Administrative Officer may pursue one (1) or more of the following remedies and penalties described below or in Section 5.7 (Civil Penalty), or otherwise authorized by common law or statute, to prevent, correct, or abate a violation of this Ordinance. Use of one (1) of the authorized remedies and penalties does not preclude the Administrative Officer from using any other authorized remedies or penalties, nor does it relieve any party to the imposition of one (1) remedy or penalty from imposition of any other authorized remedies or penalties.

5.6.1 Permit Revocation

A. A Zoning Compliance Permit, Site plan approval, or Sign Permit may be revoked by the Administrative Officer if the permit recipient fails to develop or maintain the property in accordance with plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the Administrative Officer.

B. Before a Zoning Compliance, Site Plan approval, or Sign Permit may be revoked, the Administrative Officer shall give the permit recipient ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his/her right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrative Officer shall provide to the permittee a written statement of the decision and the reasons therefore.

C. Special Use Permits may be revoked under the following procedure:

1. In any case where the conditions of a Special Use Permit have not been or are not being complied with, or the property owner fails to develop or maintain the property in accordance with the plans submitted or any other requirements of this Ordinance, the Administrative Officer shall give the permit recipient written notice by mail of the intention to revoke such permit. The notice shall be mailed no later than ten (10) days prior to a public hearing, held in the same manner as that required for issuance of the initial permit, on the matter. The notice shall inform the permit recipient of the alleged grounds for the revocation.

2. The burden of presenting sufficient evidence to authorize the Town Board of Commissioners to conclude that a permit should be revoked shall be upon the party advocating that position.

3. After conclusions of the review, the Town Board of Commissioners may revoke such permit. A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

D. No person may continue to make use of land or buildings in the manner authorized by any Zoning Compliance, Sign, or Special Use Permit or Site Plan approval after such permit has been revoked in accordance with this Section.

5.6.2 Permit Denial or Conditioning

As long as a violation of this Ordinance remains uncorrected, the Administrative Officer may deny or withhold approval of any permit, certificate, or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs. The Administrative Officer may also condition a permit, certificate, or authorization on the correction of the violation and/or payment of a civil penalty, and/or posting of a compliance security.

5.6.3 Injunctive and Abatement Relief in Superior Court

This Ordinance may also be enforced by any appropriate equitable action, including but not limited to injunction and orders of abatement issued by the Moore County District or Superior Court.

5.6.4 Judicial Action to Collect Civil Penalty

A civil action in the nature of a debt may be filed in the Moore County District or Superior Court to collect an unpaid civil penalty imposed under Section 5.7 (Civil Penalty).

5.6.5 Stop Work Order

A. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure, or land is used in violation of this or any other applicable ordinance, the Administrative Officer may issue a Stop Work Order to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure, or lands, or to prevent any illegal act, conduct, business or use in or about the premises.

B. Notice of a Stop Work Order shall be in writing, directed to the person(s) conducting the violating activity and/or the property owner, and shall state the reasons for the issuance of the Order, and the conditions under which activity may be resumed. Notice shall be given by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Upon issuance of such Order, and

posting of same on the site of the violation, all work on the site of the violation shall cease, except those activities necessary to bring the site into compliance with this Ordinance.

C. The person(s) conducting the violating activity, and/or the property owner, may appeal the Stop Work Order to the Zoning Board of Adjustment pursuant to Article 4 (Appeals, Variances, and Interpretations), Section 4.1 (Appeals) in accordance with 160D-405 (Appeals of administrative decisions)

5.7 Civil Penalty

The Administrative Officer may impose one (1) or more civil penalties and issue one (1) or more Civil Penalty Citations for a violation as provided by law or ordinance. Each day a violation continues shall constitute a separate violation. If the violator does not pay the penalty, the Administrative Officer may collect it in a court through a civil action in the nature of a debt.

5.7.1 Notice of Civil Penalty Citation

The Administrative Officer shall give the property owner written notice of the civil penalty citation, either in person, by regular mail, or by certified mail. The notice shall include the ordinance section(s) of which the property owner is in violation, the amount of the penalty, information about where to pay the penalty, and the deadline for payment. If the property owner has not remedied the violation(s) within ten (10) days of the date of the violation notice, a civil penalty shall accrue beginning on the eleventh (11th) day for each violation and for each day the violation(s) remains uncorrected.

5.7.2 Amount of Civil Penalty

The Administrative Officer may impose a penalty of one hundred dollars ($150.00) per day of violation.

5.7.3 Settlement of Claims

The Town Board of Commissioners shall determine the amount of payment that will be accepted in full and final settlement of some or all of the claims the governing body may have in connection with the violation. The Town Board of Commissioners shall indicate, in writing, the claims from which the violator is released. If the violation has not been remedied, payment shall not release a violator from a claim for injunctive relief and/or an order of abatement.

5.7.4 Continuing Violations

A. The Administrative Officer may issue a Civil Penalty Citation for a violation that continues without being corrected. The violator in such cases may be assessed a penalty for each day of the continuing violation. An initial Civil Penalty Citation for a single violation must be issued before a Civil Penalty Citation for a continuing violation is issued. If the violator has failed to pay the penalty and correct the violation after the initial Civil Penalty Citation, the violator is subject to a Civil Penalty Citation for a continuing violation with a daily penalty. An initial Civil Penalty Citation is not required if the Town has previously issued a Civil Penalty Citation to the violator for the same violation at the same location within the previous two (2) years.

B. The Administrative Officer may give a single notice of Civil Penalty Citation for a continuing violation. The notice must contain a copy of the notice of violation and must state that the violation is continuing, that a daily penalty of a specified amount is being imposed, and that the penalty is cumulative.

Article 6, NONCONFORMING SITUATIONS

6.1 Continuation of Nonconforming Situations and Completion of Nonconforming Projects

A. Unless otherwise specifically provided in this Ordinance, and subject to the restrictions and qualifications set forth in Sections 6.2 (Nonconforming Lots) through 6.7 (Completion of Nonconforming Projects), nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued.

B. Nonconforming projects may be completed only in accordance with the provisions of Section 6.7 (Completion of Nonconforming Projects).

6.2 Nonconforming Lots

A. When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in Article 10 (Density and Dimensional Regulations), then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

B. When the use proposed for a nonconforming lot is one that is conforming in all other respects, but the applicable setback requirements cannot reasonably be complied with, then the permit issuing authority is authorized by this Ordinance to issue a permit for the proposed use may allow deviations of up to twenty percent (20%) of the applicable setback requirements if it finds that:

1. The property cannot reasonably be developed for the use proposed without such deviations.

2. These deviations are necessitated by the size or shape of the nonconforming lot, and

3. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

C. Mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

D. This Section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 6.5 (Change in Use of Property Where a Nonconforming Situation Exists).

E. Subject to the following sentence, if, on the date this Section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his/her successors in interest may take advantage of the provisions of this Subsection. This Subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five hundred (500) feet of such lot are also nonconforming. The intent of this Subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

6.3 Extension or Enlargement of Nonconforming Situations

A. Except as specifically provided in this Section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

1. An increase in the total amount of space devoted to a nonconforming use, or

2. Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements, or other requirements such as parking requirements.

B. Subject to Subsection D, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 6.7 (Completion of Nonconforming Projects), a nonconforming use may not be extended to additional buildings or to land outside the original building.

C. Subject to Section 6.7 (Completion of Nonconforming Projects), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural material from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became

nonconforming if ten percent (10%) or more of the earth products had already been removed on the effective date of this Ordinance.

D. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased, and the equipment or processes used at a location where a nonconforming situation exists may be changed, if these or similar changes amount only to changes in the degree of activity rather than changes in kind, and no violations of other Subsections of this Section occur.

E. Notwithstanding Subsection A, any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements (e.g., a single-wide manufactured home may be replaced with a double-wide manufactured home). This Subsection is subject to the limitations stated in Section 6.6 (Abandonment and Discontinuance of Nonconforming Situations).

F. Notwithstanding Subsection A, whenever:

1. There exists a lot with one (1) or more structures on it, and

2. A change in use that does not involve any enlargement of a structure is proposed for such lot, and

3. the parking or loading requirements of Article 15 (Parking and Loading) that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Article 15 (Parking and Loading) if:

   a. parking requirements cannot be satisfied on the lot with respect to which the permit is required, and

   b. such satellite parking is reasonably available.

If such satellite parking is not reasonably available at the time the Zoning Compliance or Special Use Permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

6.4 Repair, Maintenance and Reconstruction

A. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation (i.e., work estimated to cost more than twenty-five percent (25%) of the appraised valuation of the structure to be renovated) may be done only in accordance with a Zoning Compliance Permit issued pursuant to this Ordinance.

B. If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed twenty-five percent (25%) of the appraised value of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a Zoning Compliance Permit issued pursuant to this Ordinance. This Subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a Zoning Compliance Permit just as they may be enlarged or replaced as provided in Section 6.3 (Extension or Enlargement of Nonconforming Situations), Subsection E.

C. For purposes of Subsections A and B:

1. The “cost” of renovation, or repair, or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement;

2. The “cost” of renovation, or repair, or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections A or B by doing such work incrementally;

3. The “appraised valuation” shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation as determined by a professionally recognized property appraiser.

D. The Administrative Officer shall issue a permit authorized by this Section if he/she finds that, in completing the renovation, repair, or replacement work:

1. No violation of Section 6.3 (Extension or Enlargement of Nonconforming Situations) will occur, and

2. The permittee will comply to the extent reasonably possible with all provisions of this Ordinance applicable to the existing use (except that the permittee shall not lose his/her right to continue a nonconforming use).

E. Compliance with a requirement of this Ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained, or moving a structure that is on a

permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

6.5 Change in Use of Property Where a Nonconforming Situation Exists

A. A change in use of property (where a nonconforming situation exists) that would require a new Zoning Compliance or Special Use Permit may not be made except in accordance with Subsections B through D. However, this requirement shall not apply if only a Sign Permit is needed.

B. If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this Ordinance applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this Ordinance is achieved, the property may not revert to its nonconforming status.

C. If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this Ordinance applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this Ordinance to issue a permit for that particular use (Administrative Officer, Zoning Board of Adjustment, or Town Board of Commissioners) issues a permit authorizing the change. This permit may be issued if the permit issuing authority finds, in addition to any other findings that may be required by this Ordinance, that:

1. The intended change will not result in a violation of Section 6.3 (Extension or Enlargement of Nonconforming Situations), and

2. All of the applicable requirements of this Ordinance that can reasonably be complied with will be complied with. Compliance with a requirement of this Ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this Subsection to construct a building, or to add to an existing building, if additional nonconformities would thereby be created.

D. If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by this Ordinance to issue a permit for that particular use (Administrative Officer, Zoning Board of Adjustment, or Town Board of Commissioners) issues a permit authorizing the change. The

permit issuing authority may issue the permit if it finds, in addition to other findings that may be required by this Ordinance, that:

1. The use requested is one that is permissible in some zoning district with either a Zoning Compliance or Special Use Permit, and

2. All of the conditions applicable to the permit authorized in Subsection C of this Section are satisfied, and

3. The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

6.6 Abandonment and Discontinuance of Nonconforming Situations

A. When a nonconforming use is discontinued for a consecutive period of one hundred-eighty (180) days, the property involved may thereafter be used only for conforming purposes.

B. If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of one hundred-eighty (180) days, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.

C. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this Section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building, or one (1) space in a nonconforming manufactured home park, for one hundred-eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But, if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for one hundred-eighty (180) days determines the right to replace it.

D. When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the one hundred-eighty (180) day period for purposes of this Section begins to run on the effective date of this Ordinance.

6.7 Termination of Nonconforming Situations

The following types of nonconforming uses shall be altered to comply with the provisions of this Ordinance or removed and/or discontinued within two (2) years after the effective date of this Ordinance:

1. Automobile repair shops, body shops, and towing/wrecker services as to screening and inoperable vehicle storage;

2. Storage outside completely enclosed structures as to screening standards;

3. Scrap materials salvage yards, junkyards, and automobile graveyards as to screening standards; and

4. Nonconforming signs as provided in Section 6.9.1 (Amortization of Non-conforming Signs).

6.8 Completion of Nonconforming Projects

A. All nonconforming projects on which construction was begun at least one hundred-eighty (180) days before the effective date of this Ordinance, as well as all nonconforming projects that are at least ten percent (10%) completed in terms of the total expected cost of the project on the effective date of this Ordinance, may be completed in accordance with the terms of their permits, so long as their permits were validly issued and remain un-revoked and un-expired. If a development is designed to be completed in stages, this Section shall apply only to the particular phase under construction.

B. Except as provided in Subsection A, all work on any nonconforming project shall cease on the effective date of this Ordinance, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a Zoning Compliance, Special Use, or Sign Permit issued in accordance with this Ordinance by the individual or board authorized by this Ordinance to issue permits for the type of development proposed. The permit issuing authority shall issue such a permit if it finds that the applicant has, in good faith, made substantial expenditures, or incurred substantial binding obligations, or otherwise changed his/her position in some substantial way in reasonable reliance on the land use law as it existed before the date of this Ordinance, and project as proposed. In considering whether these findings may be made, the permit issuing authority shall be guided by the following, as well as other relevant considerations:

1. All expenditures made to obtain or pursuant to a validly issued and un-revoked Building, Zoning Compliance, Sign, or Special Use Permit shall be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective;

2. Except as provided in Subsection B, (1), no expenditures made more than one hundred-eighty (180) days before the effective date of this Ordinance may be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure;

3. To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property;

4. To the extent that a nonconforming project can be made conforming, and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures;

5. An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of

    a. the total estimated cost of the proposed project, and

    b. the ordinary business practices of the developer;

6. A person shall be considered to have acted in good faith if actual knowledge of a proposed change in land use law affecting the proposed development site could not be attributed to him/her;

7. Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the permit issuing authority may still find that he/she acted in good faith if he/she did not proceed with his/her plans in a deliberate attempt to circumvent the effects of the proposed Ordinance. The permit issuing authority may find that the developer did not proceed in an attempt to undermine the proposed Ordinance if it determines that

a. at the time the expenditures were made, either there was considerable doubt about whether any Ordinance would ultimately be passed, or it was not clear that the proposed Ordinance would prohibit the intended development, and

b. the developer had legitimate business reasons for making expenditures.

C. When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing under Subsection B. In addition to the matters and subject to the guidelines set forth in numbers 1 through 6 of Subsection B, the permit issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:

1. Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work;

2. Whether any improvements, such as streets or utilities, have been installed in phases not yet completed;

3. Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location, or such a scale in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.

D. The permit issuing authority shall not consider any application for the permit authorized by Subsection B that is submitted more than sixty (60) days after the effective date of this Ordinance. The permit issuing authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one (1) year.

E. The Administrative Officer shall send copies of this Section to the persons listed as owners for tax purposes (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail no less than fifteen (15) days before the effective date of this Ordinance.

F. The permit issuing authority shall establish expedited procedures for hearing applications for permits under this Section. These applications shall be heard, whenever possible, before the effective date of this Ordinance, so that construction work is not needlessly interrupted.

6.9 Nonconforming Signs

A. Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Article may be continued until they are required to be removed under Section 6.9.1 (Amortization of Nonconforming Signs).

B. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.

C. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance.

D. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all of the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land and/or structure or building. For purposes of this Subsection, a nonconforming sign is "destroyed" if damage to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.

E. The message of a nonconforming sign may be changed so long as this does not create any new nonconformity (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

F. Subject to the other provisions of this Section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed, within any twelve (12) month period, fifty percent (50%) of the value (tax value if listed for tax purposes) of such sign.

G. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

H. If a nonconforming billboard remains blank for a continuous period of one hundred-eighty (180) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this Section or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Subsection, a sign is "blank" if:

1. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, or

2. The advertising message it displays becomes illegible in whole or part, or

3. The advertising copy paid for by a party other than the sign owner, or promoting an interest other than the rental of the sign, has been removed.

I. As soon as reasonably possible after the effective date of this Ordinance, the Administrative Officer shall make every reasonable effort to identify all the nonconforming signs within the Town's planning jurisdiction. He/she shall then contact the person responsible for each such sign (as well as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person

1. That the sign is nonconforming,

2. How it is nonconforming,

3. What must be done to correct it and by what date, and

4. The consequences of failure to make the necessary corrections.

The Administrative Officer shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

6.9.1 Amortization of Nonconforming Signs

A. The provisions of this Section shall not apply to outdoor advertising signs (billboards).

B. Subject to the remaining Subsections of this Section, a nonconforming sign that exceeds the height, size, or spacing limitations by more than ten percent (10%), or that is nonconforming in some other way shall, within three (3) years after the effective date of this Ordinance, be altered to comply with the provisions of this Ordinance or be removed.

C. If the nonconformity consists of too many freestanding signs on a single lot or an excess of total sign area on a single lot, the person responsible for the violation may determine which sign or signs need to be altered or removed to bring the development into conformity with the provisions of this Ordinance.

D. The following types of nonconforming signs or signs that are nonconforming in any of the following ways shall be altered to comply with the provisions of this Ordinance or removed within ninety (90) days after the effective date of this Article:

1. Portable signs and temporary signs;

2. Signs that are in violation of Section 14.11 (Sign Illumination and Signs Containing Lights) or Section 14.12 (Miscellaneous Restrictions and Prohibitions), Subsections B, C, or D.

E. Off-premises billboard signs that are protected from enforced removal by the Outdoor Advertising Control Act shall not be subject to the provisions of Subsection B of this Section unless and until just compensation is provided in accordance with the cited statute.

6.10 Nonconforming Manufactured Home Parks

A. Existing manufactured home parks that do not meet all of the standards for such a use that are set forth elsewhere in this Ordinance at the time of adoption of this Section shall be considered nonconforming. Such uses shall not expand in any way beyond the existing developed areas, but shall be allowed to remove and replace the units on spaces existing within the existing manufactured home park at the time of adoption of this Section.

B. Only the replacement and location of units on an existing manufactured home space shall be permitted, provided that the total number of units does not exceed the number existing at the time of adoption of this Section, and provided that the existing waste treatment system is functioning properly. Removal and replacement of such units shall not be considered expansion of the nonconforming use.

C. Any manufactured home unit replacing an existing manufactured home unit on an existing manufactured home space, pursuant to Subsections A and B, and not previously located within the manufactured home park, must be a Class A or Class B manufactured home as defined in Article 18 (Definitions) of this Ordinance.

Article 7, ZONING DISTRICTS AND OFFICIAL ZONING MAP

7.1 Residential Districts Established

A. The following residential districts are hereby established: RA (Residential-Agricultural), R-1 (Residential-1), and R-2 (Residential-2). Each of these Districts is designed and intended to secure for persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of some of these Districts are explained in the remainder of this Section.

B. The RA (Residential-Agricultural) District is designed to accommodate low-density residential development and continued use of land for agricultural purposes in areas within the Town's planning jurisdiction, but outside of the Town's corporate limits. The specific intent of this District is to encourage the construction of, and continuation of the use of the land, for low density residential and light agricultural purposes; to prohibit commercial and industrial use of the land, and to prohibit any other use that would interfere with the development or continuation of dwellings and light agriculture in the District; to encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance; to discourage any use that would generate traffic on minor streets other than normal traffic to service the residences and small farms on those streets; and to ensure that residential development not having access to public water and sewer supplies will occur at sufficiently low densities to ensure a healthy environment.

C. The R-1 (Residential-1) District is designed to accommodate site built and modular housing and is the most restrictive of the residential zoning districts.

D. The R-2 (Residential-2) District is designed to be a moderately restrictive residential district that allows a mixture of housing types including site built and modular homes, duplexes, and multi-family units.

7.2 Commercial Districts Established

A. The MU (Mixed Use) District is designed to allow for low impact types of businesses such as offices (medical, dental, legal), services such as barber shops and beauty salons, and florists. This District also allows single and multi-family residential uses. The district shall be measured two hundred (200) feet from any right-of-way line shown on the Official Zoning Map for the Town of Vass when the district boundary is located along a road and does not follow an existing property line. Where the official road right-of-way line has been determined by a field

survey, the boundary shall extend two hundred (200) feet back from the right-of-way.

B. The HC (Heavy Commercial) District is designed to allow for high traffic types of business uses such as car dealerships and shopping centers, as well as less intensive business uses as well.

7.3 Industrial Districts Established

A. The I (Industrial District) is designed to accommodate warehousing, mixed industrial, and industrial/heavy commercial uses. The purpose is to promote and protect both existing industrial activities and potential sites where urban services are available, and that are considered suitable for continued or future industrial use; to prohibit uses of land that would interfere with the continuation of uses permitted in the District; and to promote the operation of industrial facilities in a relatively clean and quiet manner.

B. The IL (Industrial – Light) district is designed to accommodate light industrial and heavy commercial uses. The purpose is to promote industrial activities with little to no significant sight, sound, or visual impacts to adjacent properties.

7.4 Conservation District Established

A. Conservation District is established as a district in which the primary use of the land is reserved for private lands within conservation easements or forestry, or public lands for use by the general public for recreation, parks, forests, and other open space uses. This district is intended to preserve and protect environmentally sensitive lands (e.g. floodways, wetlands) and/or properties otherwise restricted for heavy use.

7.5 Watershed Protection Overlay Districts Established

The Watershed Protection Overlay Districts are established to protect those portions of designated water supply watersheds that lie closest to existing and proposed water supply reservoirs from activities that could degrade water quality in the reservoirs. In accordance with the State Mandate, Watershed Protection Overlay Districts, as listed in Table 7-1 (Watershed Protection Overlay Districts), are hereby established.

Table 7-1: Watershed Protection Overlay Districts

District		Class	Acreage	General Location
LITTLE-PW	Little River Protected Watershed	WS-III-BW	1349.9 plus Critical Area)	The portion of the drainage basin of the Little River located in the Town of Vass' planning jurisdiction.

LITTLE-CA	Little River Watershed Critical Area	WS-III-CA	154	½ mile upstream from the Town of Vass water intake.
LITTLE-I2-PW	Little River (Intake #2) Protected Watershed	WS-III-BW	5117.5	The portion of the drainage basin of the Little River located in the Town of Vass' planning jurisdiction and draining to the water intake located in Cumberland County.

7.6 Conditional Zoning

A. Conditional zoning are hereby established. Conditional zoning allows for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. The development of these uses cannot be predetermined or controlled by general district standards. Instead, these districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property.

B. A Conditional zoning shall be parallel to an existing zoning district, which means that the potential permitted use or uses in the conditional zoning are, except as limited or expanded by the conditions imposed on the condition zoning, of the same character and type as the use or uses permitted in the parallel general zoning district. Conditional zoning is designated on the zoning map with a "CZ" after the general zoning district designation. For example, the parallel conditional zoning district for MU is MU-CZ.

C. The process for approving a Conditional Zoning is provided in Article 17, Part 2, "Conditional Zoning Rezoning."

7.7 Official Zoning Map

A. There shall be a map, known and designated as the Official Zoning Map that shall show the boundaries of all zoning districts within the Town's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the Town Clerk's Office.

B. The Official Zoning Map dated December 8, 2008 is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Section 7.6.1 (Amendments to Official Zoning Map).

C. Should the Official Zoning Map be lost, destroyed, or damaged, the Administrative Officer may have a new map drawn on acetate or other durable material from which prints can be made. No further Town Board of Commissioners authorization or action is required so long as no district boundaries are changed in this process.

7.7.1 Amendments to Official Zoning Map

A. Amendments to the Official Zoning Map are accomplished using the same procedures that apply to other amendments to this Ordinance, as set forth in Article 17 (Amendments).

B. The Administrative Officer shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the Town Board of Commissioners. Upon entering any such amendment on the map, the Administrative Officer shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

C. No unauthorized person may alter or modify the Official Zoning Map.

D. The Town Clerk shall keep copies of superseded prints of the Official Zoning Map for historical reference.

7.8 Historic Landmarks

The Board of Commissioners may designate property as local historic landmarks per the NC general statutes. The governing board may adopt, amend, and repeal a regulation designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

A. No regulation or amendment to a regulation designating a historic building, structure, site, area, or object as a landmark shall be adopted, and no property shall be accepted or acquired by a preservation commission or the governing board, until the preservation commission: (i) prepares and adopts rules of procedure and; (ii) prepares and adopts principles and standards, for altering, restoring, moving, or demolishing properties designated as landmarks.

1. The preservation commission forwards to the Office of Archives and History of the North Carolina Department of Natural and Cultural Resources an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition.

2. The Department of Natural and Cultural Resources is allowed 30 days from receipt of the preservation commission's complete investigation and report to provide written comments to the commission concerning the proposed designation or acquisition. Failure of the Department to submit its comments within the time

allowed relieves the commission and the governing board of any responsibility to consider the comments.

3. The preservation commission and the governing board hold a joint legislative hearing or separate legislative hearings on the proposed regulation. Notice of the hearing shall be made as provided by G.S. 160D-601. Following the hearings, the governing board may adopt the regulation as proposed, adopt the regulation with any amendments it deems necessary, or reject the proposed regulation.

4. Upon adoption of the regulation, the owners and occupants of each designated landmark are given written notice of the designation within a reasonable time. One copy of the regulation and all amendments to it shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark is located. In the case of any landmark property lying within the planning and development regulation jurisdiction of a city, a second copy of the regulation and all amendments to it shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the regulation and any amendments shall be given to the local government building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the local government for such period as the designation remains in effect.

5. Upon the adoption of the landmark regulation or any amendment to it, the preservation commission gives notice of the regulation or amendment to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

6. The regulation shall describe each property designated in the regulation, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the regulation shall require that the waiting period set forth in the NCGS be observed prior to its demolition. For each designated landmark, the regulation may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

7. According to NCGS 105-278, real property designated as a historic property by a local ordinance adopted pursuant to G.S. 160D-945 is designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified shall be taxed uniformly as a class in each local taxing unit on the basis of fifty percent (50%) of the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287.

8. The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit(s) as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. In addition to the provisions in G.S. 105-277.1F, no deferred taxes are due and all liens arising under this subsection are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster.

Article 8, PERMITTED USES

8.1 Table of Permitted and Special Uses

The Table of Permitted Uses (Table 8-1) should be read in close conjunction with the definitions of terms set forth in Article 18 (Definitions), Article 12 (Supplemental Requirements for Specified Uses), Article 13 (Water Supply Watershed Overlay Regulations), and the other interpretive provisions set forth in this Ordinance.

Table 8-1: Table of Permitted and Special Uses

Use Description	Zoning Districts							
	RA	R-1	R-2	MU	HC	I	IL	C
Residential								
Minor Subdivision	PS	PS	PS	PS				
Major Subdivision, resulting in less than 20 lots	PS	PS	PS	PS				
Major Subdivision, resulting in 20 or more lots	CZ	CZ	CZ	CZ				
Single-Family Detached (Site Built & Modular)	P	P	P	P				
Class A Manufactured Home (double-wide or multisectional)	PS		PS					
Class B Manufactured Home (single-wide)	PS							
Manufactured Home Parks	PS							
2-Family Conversion	P		P	P				
Primary Residence with Accessory Dwelling	PS	PS	PS	PS				
Duplex	P	P	P	P				
Multi-Family Townhomes			PS	S				
Multi-Family Apartments			S	S				
Family Care Home	PS	PS	PS	PS				
Group Care Home	PS	PS	PS	PS				
Hotels & Motels				S	S			
Bed & Breakfast Establishment	PS	PS	PS	PS				
Home-Based Business	PS	PS	PS	PS				
Temporary Emergency, Construction, or Repair Residences	PS	PS	PS	PS	PS	PS		
Sales & Rental of Goods, Merchandise & Equipment								
ABC Store				PS	P			
Convenience Store & Convenience w/Drive-Through					S			
Wholesale Sales					PS	P	PS	
Businesses with Drive-thru Windows				PS	PS			
Retail Sales				P	P	P		
Retail Sales with Subordinate Manufacturing & Processing				PS	PS	PS	PS	
Retail Sales from and Storage in Tractor-Trailers				S		S		
Shopping Center					S			
Manufactured Housing Sales					PS	PS		
Mobile Vendor					PS			
Office, Clerical, Research & Services Not Primarily Related to Goods or Merchandise								
Operations Designed to Attract & Serve Customers or Clients on the Premises, Such as the Office of Attorneys, Physicians, Other Professions, Insurance & Stock Brokers, Travel Agents, Governmental Office Buildings, etc.				P	P	P		
Operations Designed to Attract Little or No Customer or Client Traffic Other Than Employees of the Entity Operating the Principal Use (i.e. Trucking Dispatch Terminal, without over-sized vehicle traffic and parking)				P	P	P	P	
Banks without Drive-In Window				P	P			
Banks with Drive-In Window				PS	PS			
Automatic Teller Machine, Freestanding				S	PS			
Trade and repair shops such as carpentry, electrical, plumbing, heating, upholstery and similar enterprises catering to homes and businesses, provided that all materials are stored and operations take place within an enclosed building.				P	P	P	P	
P = Permitted with Zoning Compliance Permit PS = Permitted with Supplemental Requirements (See Article 12) S = Permitted with Special Use Permit (See Section 3.3 and Article 12) CZ = Conditional Zoning (see Article 16 and Article 17, Part 2)								
Use Description	**Zoning Districts**							

	RA	R-1	R-2	MU	HC	I	IL	C
Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise, & Equipment								
Operations Conducted Entirely Within Fully Enclosed Buildings				PS	PS	PS	PS	
Manufacturing, Minor						PS	PS	
Manufacturing, Major						PS		
Petroleum Products (Storage & Distribution)						PS		
Warehousing or Distribution Center with Freight Movement						P	P	
Wholesale Trade						PS	PS	
Educational, Cultural, Religious, Philanthropic, Social & Fraternal Uses								
Elementary, Middle & Secondary Schools (including Associated Grounds & Athletic & Other Facilities)	PS	PS	PS	PS	PS			
Trade or Vocational Schools	S	S	S	S	S			
Churches, Synagogues & Temples (Including Associated Residential Structures for Religious Personnel & Associated Buildings, but not Including Elementary or Secondary School Buildings)	P	P	P	P	P	P		
Libraries, Museums, Art Galleries, Art Centers & Similar Uses (Including Associated Educational & Instructional Activities)				P	P			
Social & Fraternal Clubs & Lodges, Union Halls, & Similar Uses				S	S			
Recreation, Amusement, Entertainment								
Arcade/Game Room **(Amended 2/14/11)**				PS	PS			
Bingo Games **(Amended 2/14/11)**				S	S			
Billiard Parlor/Pool Room **(Amended 2/14/11)**				S	S			
Electronic Game Promotions **(Amended 2/14/11)**						S		
Recreation Facility (Non-Profit)	S	S	S	S	S			S
Recreation Facility (Profit)	S	S	S	S	S			S
Gym, including yoga, cross fit, and similar exercise studios				P	P	P		
Indoor Archery Range (Amended 3/19/18)				PS				
Indoor Movie Theaters					P			
Community Center	S			S	S			S
Camp/Retreat Center	S							S
Golf Course (Independent & Country Club)	S							
Golf Driving Range Not Accessory to a Golf Course	S				S	P		
Institutional Residence or Care and Confinement Facilities								
Nursing Care Homes	PS			PS				
Nursing Care Institutions	PS				PS			
Restaurants (Including Food Delivery Services), Bars, Night Clubs								
Restaurant **(Amended 9/12/11)**				P	P			
Outside Service/Consumption (**Amended 9/12/11)**				P	P			
Drive-In (Service to & Consumption In Vehicle On Premises) **(Amended 9/12/11)**				S	PS			
Drive-In Windows (Service Directly to Vehicles Primarily for Off-Premises Consumption) (**Amended 9/12/11)**				S	PS			
Carry Out Service (Food Picked Up Inside for Off-Premises Consumption) (**Amended 9/12/11)**				S	P			
Night Clubs, Bars, Breweries & Taprooms				PS	PS	PS	PS	
Mobile Food Vendor					PS	PS	PS	
Alcoholic Beverage Sales Store	P			P	P			
Motor Vehicle Related Sales & Service Operations								
Motor Vehicle Sales & Rental or Sales & Service					PS	PS		
Automobile Service Stations					PS	PS		
Automobile Repair Shop or Body Shop					PS	PS		
Car Wash				S	PS	PS		
Automobile towing and wrecker service					PS	PS		
P = Permitted with Zoning Compliance Permit PS = Permitted with Supplemental Requirements (See Article 12) S = Permitted with Special Use Permit (See Section 3.3 and Article 12) CZ = Conditional Zoning (see Article 16 and Article 17, Part 2)								
Use Description	**Zoning Districts**							

	RA	R-1	R-2	MU	HC	I	IL	C
Storage & Parking								
Self-Storage/Mini-Warehouses				S	S	S		
Parking of Vehicles or Storage of Equipment Outside Enclosed Structures Where: (1) Vehicles or Equipment are Owned and Used by the Person Making Use of the Lot, and (2) Parking or Storage is More Than a Minor & Incidental Part of the Overall Use Made of the Lot.						P		
Scrap Materials Salvage Yards, Junkyards, & Automobile Graveyards						S		
Services & Enterprises Related to Animals								
Veterinarians Offices	S				PS	PS	PS	
Kennels	PS				PS	PS		
Horse Stable (Private and Public)	PS	PS	PS	PS				
Riding Stables/Academies	S							
Emergency Services								
Police Stations	P	P	P	P	P	P		
Fire Stations	P	P	P	P	P	P		
Rescue Squad, Ambulance Service	P	P	P	P	P	P		
Civil Defense Operation	P	P	P	P	P	P		
Agricultural, Silvicultural Operations								
Agricultural Operations & Farming Excluding Livestock	P							
Agricultural Operations & Farming Including Livestock	PS							
Forestry & Timbering Operations (Excluding Properties Currently Participating in the Forest Use Value Program and Operations Conducted in Accordance with an Approved Forest Management Plan) **(Amended 11/12/2012)**	P	S	S	S	S	S		P
Solar Farms	PS					PS		
Miscellaneous Public & Semi-Public Facilities								
Post Office				P	P			
Military Reserve, National Guard Centers	P					P		
Park, Athletic & Community	PS	PS	PS	PS	PS			PS
Park, Neighborhood	PS	PS	PS	PS	PS			PS
Government Offices	S	S	S	S	S	S		
Dry Cleaner, Laundromat								
With Drive-In Windows				PS	PS			
Without Drive-In Windows				P	P			
Utility Facilities								
Neighborhood Utility Facilities	P	P	P	P	P	P	P	P
Public Utility Stations & Substations, Water or Sewage Treatment Plants, Switching Stations, Telephone Exchanges, Elevated Water Storage Tanks	P	P	P	P	P	P	P	P
Transmission Lines	P	P	P	P	P	P	P	P
Towers & Related Structures								
Telecommunications Towers & Antennas 35 Feet Tall or Less	P	P	P	P	P	P	P	
Telecommunications Towers & Antennas Attached Thereto That Exceed 35 Feet in Height	S					S	S	
Publicly Owned Towers & Antennas Of All Sizes That are Used in the Provision of Public Safety Services	P	P	P	P	P	P	P	

P = Permitted with Zoning Compliance Permit PS = Permitted with Supplemental Requirements (See Article 12) S = Permitted with Special Use Permit (See *Section 3.3 and* Article 12) *CZ = Conditional Zoning (see Article 16 and Article 17, Part 2)*

Use Description	Zoning Districts

	RA	R-1	R-2	MU	HC	I	IL	C
Open Air Markets & Horticultural Sales								
Open Air Markets (Farm & Craft Markets, Flea Markets, Farmers Markets)	PS			PS	PS	PS		
Horticultural Sales With Outdoor Display	PS				PS	PS	PS	
Seasonal Christmas Tree or Pumpkin Sales	PS				PS	PS	PS	
Funeral Homes					P	P		
Cemetery & Crematorium								
Cemetery (Commercial)	S				PS	P		
Crematorium						P		
Nursery Schools, Day Care								
Adult Day Care Facility	S	S	S	S	S			
Child Day Care Facility	S	S	S	S	S			
Family Child Care Home	PS	PS	PS	PS				
Temporary Structure or Parking Lots Used In Connection With the Construction of a Permanent Building or for Some Non-Recurring Purpose								
Temporary Structures Located on the Same Lot as the Activity Generating the Need for the Structure	PS	PS	PS	PS	PS	PS	PS	
Temporary Parking Facilities Located On or Off-Site of Activity Generating the Need for Parking	PS	PS	PS	PS	PS	PS	PS	
Commercial Greenhouse Operations	P					P	P	
Event Venue	PS			PS	PS	PS		S
Special Events	PS	PS	PS	PS	PS	PS	PS	PS
Outdoor Advertising Signs/Billboards						S		
Sexually Oriented Businesses						S		
Shooting Ranges (Indoor)	PS					PS		
P = Permitted with Zoning Compliance Permit PS = Permitted with Supplemental Requirements (See Article 12) S= Permitted with Special Use Permit (See Section 3.3 and Article 12) CZ = Conditional Zoning (see Article 16 and Article 17, Part 2)								

8.2 Use of the Designation "P", "PS", "S", and "CZ" in the Table of Permitted Uses

Subject to Section 8.3 (Town Board of Commissioners Jurisdiction Over Uses Otherwise Permissible with a Zoning Compliance Permit), when used in connection with a particular use in the Table of Permitted Uses, the letter "P" means that the use is permitted in the indicated zone with a Zoning Compliance Permit issued by the Administrative Officer. The letters "PS" means that the use is permitted with supplemental requirements in the indicated zone with a Zoning Compliance Permit issued by the Administrative Officer. The letter "S" means a Special Use Permit must be obtained from the Town Board of Commissioners. Additionally, any structures in which the height will be 50' or greater, will require a Special Use Permit. "CZ" means the use or application must follow the conditional rezoning process in order to be allowed.

8.3 Permitted Uses and Specific Exclusions

A. The presumption established by this Ordinance is that all legitimate uses of land are permissible within at least one (1) zoning district in the Town's planning

jurisdiction. Therefore, because the Table of Permitted Uses set forth in Section 8.1 (Table of Permitted Uses) cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

B. Notwithstanding Subsection A, all uses that are not listed in Section 8.1 (Table of Permitted Uses), even given the liberal interpretation mandated by Subsection A, are prohibited. Nor shall Section 8.1 (Table of Permitted Uses) be interpreted to allow a use in one (1) zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

A. Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts, unless specifically listed as permitted:

1. Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the Town's fire prevention code;

2. Stockyards, slaughterhouses, and rendering plants;

3. Use of a travel trailer as a permanent residence. Situations that do not comply with this Section on the effective date of this Ordinance are required to conform within one (1) year;

4. Use of a motor vehicle, tractor-trailer, trailer (with or without wheels) parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, or any services are performed, or any other uses are conducted, or a mobile home used for storage, except as specifically listed and for which a Special Use permit has been issued. Situations that do not comply with this section on the effective date of this Ordinance are required to conform within ninety (90) days.

8.4 Permitted Uses Not Requiring Permits

Notwithstanding any other provisions of this Ordinance, no Zoning Compliance or Special Use Permit is necessary for the following uses:

1. Streets;

2. Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way and for which a permit is not otherwise specifically required by the Ordinance;

3. Neighborhood Utility Facilities located within a public right-of-way with the permission of the owner (State or Town) of the right-of-way;
4. Playground equipment, yard ornaments, or pump houses that are twenty-five (25) square feet or less in gross floor area.

8.5 Change in Use

A. A change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

1. The change involves a change from one (1) principal use category to another;

2. If the original use is a combination use, the relative proportion of space devoted to the individual principal uses that comprise the combination use changes to such an extent that the parking requirements for the overall use are altered;

3. If the original use is a combination use, the mixture of the types of individual principal uses that comprise the combination use changes;

4. If there is only one (1) business or enterprise conducted on the lot (regardless of whether the business or enterprise consists of one (1) individual principal use or combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one (1) building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use even though both tenants fall within the same principal use classification. However, if the florist shop were replaced with another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one (1) business on the lot and the essential character of the activity conducted on that lot (shopping center-combination use) has not changed.

B. A mere change in the status of property from unoccupied to occupied or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two (2) active uses of the property without regard to any intervening time period during which the property may have been unoccupied, unless the property has remained unoccupied for more than one hundred-eighty (180) days or has been abandoned.

C. A mere change in ownership of a business or enterprise or a change in name shall not be regarded as a change in use.

8.6 Combination Uses

A. When a combination use comprises two (2) or more principal uses that require different types of permits (Zoning Compliance or Special Use), then the permit authorizing the combination use shall be:

1. A Special Use Permit if any of the principal uses combined requires a Special Use Permit;
2. A Zoning Compliance Permit in all other cases.

8.7 More Specific Controls

Whenever a development could fall within more than one (1) use classification in the Table of Permitted Uses, the classification that most closely and most specifically describes the development controls.

Article 9, GENERAL PROVISIONS

9.1 Accessory Buildings

A. No accessory building shall be constructed on any lot prior to the time of construction of the principal structure to which it is accessory.

B. No accessory building shall project beyond the front building line of the principal structure or site. **(Amended 11/12/2012)**

C. On any residential lot 40,000 square feet or less, there shall be no more than two accessory buildings. Combined square footage of accessory buildings shall be smaller in square footage than the gross floor area of the principal dwelling. Any lot greater than 40,000 square feet in the RA, R-1 and R-2 is exempt from this accessory building limit; however, a building permit is still required.

D. Maximum lot coverage of principal and accessory buildings shall not exceed twenty-four percent (24%) of the lot.

9.2 Accessory Uses

A. The Table of Permitted Uses classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in the Table of Permitted Uses) is conducted in conjunction with another principal use and the former use

1. Constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or

2. Is commonly associated with the principal use and integrally related to it,

then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a Special Use Permit. Electronic game promotions are prohibited as an accessory use.
(Amended 2/14/11)

B. For purposes of interpreting this Section:

1. A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;

2. To be “commonly associated” with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

C. Without limiting the generality of Subsections A and B, the following activities are specifically regarded as accessory to residential principal uses as long as they satisfy the general criteria set forth above:

1. Hobbies or recreational activities of a noncommercial nature;

2. The renting out of one (1) or two (2) rooms within a single-family residence (which one (1) or two (2) rooms do not themselves constitute a separate dwelling unit) to not more than two (2) persons who are not part of the family that resides in the single-family dwelling;

3. Towers and antennas constructed on residential property, as long as:

a. Such towers, fifty (50) feet tall or less, intended for the personal and noncommercial use of the residents of the property where located; and

b. Such towers and antennas comply with the setback requirements of Article 10 (Density and Dimensional Regulations) and are installed only in rear or side yards; and

c. No more than one (1) such tower or antenna may be regarded as an accessory use on a single lot; and

d. The owner must be able to demonstrate compliance with Federal Communications Commission (FCC) regulations, 47 CFR Part 97, Subpart 97.15, Sections (a) through (e), inclusive.

4. Child day care arrangements for one (1) or two (2) children as well as other child day care arrangements, such as arrangements operated in the home of any child receiving care if all the children in care are related to each other, or no more than two (2) additional children are in care, and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.

B. On property that is residentially zoned (i.e. zoned RA, R-1, or R-2), a temporary family health care structure shall be regarded as an accessory use to a single-

family detached dwelling to the extent authorized and in accordance with the provisions of G.S. 160D-915.

C. Without limiting the generality of Subsections A and B, the following activity shall not be regarded as accessory to a residential principal use and is prohibited in residential districts:

1. Parking outside a substantially enclosed structure of more than four (4) motor vehicles between the front building line of the principal building and the street on any lot used for purposes of single-family and two-family use; family care and group care homes; or boarding and rooming houses.

D. No accessory use shall be established on any lot prior to the time of construction or establishment of the principal structure or use to which it is accessory.

9.3 Corner Visibility

No planting, fence, or other obstruction to visibility of vehicles shall be erected, maintained, or allowed to exist to a height of more than three (3) feet above street level, or closer than fifteen (15) feet to the intersection of any two (2) street lines.

9.4 Curb Cuts Giving Access to Public Rights-of-Way

A. Construction of curb cuts for purpose of ingress or egress to property abutting a public right-of-way shall be approved by the public authority in the Town that has jurisdiction over the maintenance of public streets, and the North Carolina Department of Transportation where said curbs affect access to State Highways. Provision for all access work done on highway rights-of-way are subject to approval by the Department of Transportation.

B. All driveway entrances and other openings onto streets within the Town's planning jurisdiction shall be constructed so that:

1. Vehicles can enter and exit from the lot in question without posing any danger to themselves, pedestrians, or vehicles traveling on abutting streets, and

2. Interference with the free and convenient flow of traffic on abutting or surrounding streets is minimized.

3. All driveways shall be paved with an asphalt or concrete surface from the edge of the road/street pavement to the property line.

4. All driveway connections must provide for adequate flow of stormwater run-off in sideline ditches, valley gutters or suitable sized, approved pipe.

5. Driveway apron(s) shall span the full distance from edge of pavement to property line.

C. If driveway entrances and other openings onto streets are constructed in accordance with the foregoing specifications and requirements, this shall be deemed prima facie evidence of compliance with the standards of this Section.

9.5 Fences and Walls

A. Fences and walls shall not be constructed or placed that impair or impede visibility or movement at any street intersection or on the edge of driveways at their intersection with street lines, nor shall any fence or wall encroach on any street right-of-way.

B. The following types of fences and walls are permitted in all zoning districts:

1. Open picket fence;

2. Post and rail fence;

3. Solid plank fence;

4. Wrought iron fence;

5. Brick or stone (solid or pierced) fence

6. Chain link or similar fencing.

C. The following types of fences are prohibited:

1. Fences topped with barbed wire or metal spikes shall not be permitted in any residential district, except those serving a public facility requiring a security fence for public safety purposes;

2. Electrically charged fences that people or animals may come into contact with are not considered reasonably safe and are prohibited in all zoning districts, except the RA (Residential-Agricultural) District;

3. Fences constructed primarily of barbed wire or razor wire are prohibited in all residential districts, except for the purpose of enclosing livestock in the RA (Residential-Agricultural) District;

4. Fences constructed of concertina wire.

D. Fences must be erected with the posts, supports, stringer and all unfinished materials facing the owner's residence and property.

E. In residential zoning districts, fences and walls shall be not exceed four (4) feet in height in the front yard and six (6) feet in side and rear yards. For nonresidential uses, the maximum height of any fence, regardless of its location, shall not exceed eight (8) feet plus any required barbed wire topping.

F. Opaque fences and walls that exceed six (6) feet in height that run along lot boundaries adjacent to public street rights-of-way shall meet applicable front building setbacks.

G. In cases where a fence or wall is to be erected **on a property line**, the applicant or property owner shall obtain the services of a professional surveyor or engineer to aid in the placement of the fence or wall. Applications for a fence or wall to be erected on a property line shall be accompanied by a professionally prepared survey or drawing indicating the surveyed property lines of the subject property, existing buildings and driveways, and the proposed location of the fence or wall. Any property line disputes shall be settled prior to issuance of a Zoning Compliance Permit for a fence or wall erected on a property line in instances where deed gaps, or conflicting property line locations are evident.

H. Fences shall not be placed so as to alter or impede the natural flow of water in any stream, drainage ditch, or swale.

I. Any fence that, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal or property is hereby deemed a nuisance. If such conditions exist, the Administrative Officer shall require the owner or occupant of the property upon which the fence is located to repair, replace or demolish the fence causing the nuisance.

J. No fence shall block access from doors or windows. Fences must have a clearance of at least two (2) feet from building walls, except where fences project from or to a building wall.

K. No fence shall be constructed to alter or impede the visual locating of street addresses.

L. On fences topped with barbed wire, the bottom strand must be at least six (6) feet above grade with vertical supports slanting inward or outward up to the property owner's discretion, as long as they do not encroach over the property line.

9.6 Orientation of Structure

A. Except as permitted by subsection B below, the orientation of individual structures must be positioned such that the front door is designed to face the street on which its 911 address is assigned. **(Amended 2/14/11)**

B. Residential uses constructed on lots which are (1) narrower than the required lot width and/or smaller than the required lot size, and (2) that were platted prior to the adoption of the Town of Vass Zoning Ordinance on December 8th 2008, may be designed to face an alternative direction in order to fit within the required setbacks.

C. In all cases the address of the structure shall be prominently displayed on the side of the structure which faces the street on which its 911 address is assigned.

9.7 Outside Storage of Motor Vehicles and Parts

Outside storage of any motor vehicle that is neither licensed nor operational or parts of any motor vehicle is prohibited in all zoning districts. Storage inside of a fixed, covered structure that is fully enclosed on all sides by permanent, rigid material is allowed in all zoning districts. **(Amended 01/13/2014)**

9.8 Reduction of Lot and Yard Areas Prohibited

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

9.9 Relationship of Buildings to Lots

Every building hereafter erected, moved, or structurally altered shall be located on a lot, and in no case shall there be more than one (1) principal building and its customary accessory buildings on a lot, except in the case of a designed complex of institutional, residential, commercial, or industrial buildings in an appropriate zoning district (i.e., school campus, cluster housing, shopping center, research park, etc.), or otherwise allowed by this Ordinance.

9.10 Required Yards Not to be Used by Another Building

The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of any other building.

9.11 Restriction on Truck Parking in Residential Districts

Trucks with a gross weight of ten thousand (10,000) pounds and more than six (6) wheels shall be prohibited from parking overnight in any residential district unless the lot is a minimum of five (5) acres in size and the trucks/trailers are being used on a regular basis for a business purpose.

9.12 Street Access

No building shall be erected on a lot that does not abut a public street or recorded easement for a distance of at least twenty-five (25) feet, provided, that in a designed shopping center in a commercial district, or a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space used in common with other lots. On lots that do not abut a public street, no building shall be erected until an easement or right-of-way has been legally obtained granting access to a public street.

9.13 Swimming Pools

A. All swimming pools with a wall height of more than 36” require a zoning compliance permit.

B. All swimming pools, whether above ground or in-ground, shall be located only in rear yards.

C. Swimming pools shall be set back a minimum of ten (10) feet from all side and rear property lines. Patio areas at grade have no setback requirements from rear and side lot lines.

D. Swimming pools with a wall height of more than 36” shall be enclosed by a fence with a minimum height of four (4) feet and a maximum height of six (6) feet with a self-closing, self-latching gate.

9.14 Travel Trailers/Portable Structures

A. No bus, pickup coach, utility trailer, camping trailer, self-contained travel trailer or house trailer (defined as a vehicular, portable structure built on a wheel chassis, designed to be towed by a self-propelled vehicle for use as a temporary dwelling, for travel, recreation and vacation uses, having a body width not to exceed eight (8) feet and a body length not exceeding forty (40) feet when equipped for road travel) shall be used for living, sleeping, or business purposes on any lot within the zoning jurisdiction of the Town of Vass and may not be parked in any front yard.

B. Camping trailers and self-contained travel trailers may be used as a temporary residence on residentially zoned property for no more than fourteen (14) straight consecutive days in any twelve (12) month period and may not be parked in any front yard. This provision shall only be used on property where an occupied residence is located.

C. Portable On Demand Storage Units (PODS) may be used as temporary storage for up to 60 days with a zoning compliance permit.

Article 10, DENSITY AND DIMENSIONAL REGULATIONS

10.1 Minimum Lot Size

Due to the fact that the Town of Vass is entirely located within two (2) protected water supply watershed districts, all lots in the following zones shall have at least the amount of square footage indicated in the following Table. Where a minimum lot size is not required, impervious surface requirements as specified in Article 13 (Water Supply Watershed Overlay District Regulations) shall apply.

Table 10-1: Minimum Lot Size Requirements

Zoning District	Minimum Square Feet	
RA, R-1, R-2	Protected Area	20,000
	Critical Area	40,000
MU & HC	None for Commercial Uses*. 20,000 in Protected Areas, and 40,000 in Critical Areas for Residential Development.	
I	43,560*	
PA = Watershed Protected Area CA = Watershed Critical Area		

** Impervious surface requirements apply per Section 13.4 (Impervious Surface Requirements).*

10.2 Minimum Lot Widths

A. No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

1. Could be used for purposes that are permissible in that zoning district, and

2. Could satisfy any applicable setback requirements for that district.

B. Without limiting the generality of the foregoing standard, the following Table indicates minimum lot widths that are deemed presumptively to satisfy the standard set forth in Subsection A. The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot.

Table 10-2: Minimum Lot Width Requirements

Zoning District	Minimum Lot Width (in feet)	
RA, R-1, R-2	Single Family	75
	Other Uses	150
MU	50	
HC & I	100	

10.3 Building Setback Requirements

A. No portion of any building may be located closer to any lot line, or street right-of-way line, or centerline, than is authorized in the Tables set forth in this Section.

1. If the street right-of-way line is readily determinable (by reference to a recorded plat, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.

2. As used in this Section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.

3. As used in this Section, the term "building" includes any structure that by the nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall also be considered a building for purposes of this ordinance:

a. Gas pumps and overhead canopies or roofs;

b. Fences, along lot boundaries adjacent to public street rights-of-way, if such fence exceeds six (6) feet in height and is opaque.

B. Residential uses constructed on lots which are (1) narrower than the required lot width and (2) that were platted prior to the adoption of the Town of Vass Zoning Ordinance on December 8th 2008, shall be required to provide 6' side setbacks. **(Amended 05/12/2025)**

Table 10-3: Minimum Building Setback Requirements (Amended 10/13/2025)

Minimum Distance From Street Right-of-Way Line				Minimum Distance from Lot Boundary Lines		
Zoning District	Front	Corner Side	Corner Side from State Maintained Road	Front	Building Side	Rear
RA	30	30	30	30	12	30
R-1	30	12	30	30	12	30
R-2	30	12	30	30	12	30
MU	30	12	30	30	12	30
HC	30	15	30	30	30	30
I	30	15	30	30	30	30

B. Whenever a lot in a non-residential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the

residential lot is greater than that applicable to the non-residential lot, then the lot in the non-residential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.

C. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

D. A foundation survey may be required when principal buildings will be located within 3' of any required setback or Finished Floor Elevations are required.

10.3.1 Accessory Building Setback Requirements.

A. All accessory buildings must comply with the street right-of-way set forth in Section 10.3 (Building Setback Requirements), but (subject to the remaining provisions of this Section) shall be required to observe a ten (10) foot setback from side and rear lot boundary lines.

B. Where the high point of the roof or any appurtenance of an accessory building exceeds twelve (12) feet in height, the accessory building shall be set back from rear lot boundary lines an additional two (2) feet for every one (1) foot of height exceeding twelve (12) feet.

10.4 Building Height Limitations

A. For purposes of this Section:

1. The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building;

2. A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than seventy-five percent (75%) are regarded as walls.

B. Subject to the remaining provisions of this Section, building height limitations in the various zoning districts shall be as follows:

Table 10-4: Maximum Building Height Requirements

Zoning District	Height Limitation (in feet)
RA, R-1, R-2	35
MU	40

HC	35
I	40

C. Subject to Subsection D, the following features are exempt from the district height limitations set forth in Subsection B:

1. Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage;

2. Flagpoles and similar devices;

3. Heating and air conditioning equipment, solar collectors, and similar equipment, fixtures, and devices.

D. The features listed in Subsection C are exempt from the height limitations set forth in Subsection B if they conform to the following requirements:

1. Not more than one-third (1/3) of the total roof area may be consumed by such features;

2. Heating and air conditioning equipment and other similar equipment and devices must be set back from the edge of the roof a minimum distance of one (1) foot for every foot by which such features extend above the roof surface of the principal building to which they are attached;

3. The permit issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in Subsection C, (1) and (3) from view.

E. Notwithstanding Subsection B, in any zoning district, the vertical distance from the ground to a point of access to a roof surface of any non-residential building or any multi-family residential building containing four (4) or more dwelling units may not exceed thirty-five (35) feet unless the Fire Marshal certifies to the permit issuing authority that such building is designed to provide adequate access for fire-fighting personnel, or the Building Inspector certifies that the building is otherwise designed or equipped to provide adequate protection against the dangers of fire.

F. Solar collectors and panels must be set back from the edge of the roof a minimum distance of one (1) foot for every foot by which such features extend above the roof surface of the principal building to which they are attached. Solar panels are not allowed to be located on the ground in any zoning districts other than RA, I, IL, or as part of an approved subdivision.

G. Towers and antennas are allowed in all zoning districts to the extent authorized in the Table of Permitted Uses. Wind Energy Facilities are prohibited within the Town of Vass and its extraterritorial jurisdiction.

H. Vass will not approve certain buildings and structures 200’ or more in height, proposed within 5 miles of Fort Bragg, except upon demonstration of compliance with the Military Lands Protection Act of 2013 (N.C.G.S. §§ 143-151.70 through 143-151.77).

Article 11, NON-RESIDENTIAL PERFORMANCE STANDARDS AND RESIDENTIAL AND NONRESIDENTIAL LIGHTING STANDARDS

11.1 Standards for Effluent and Emissions

The provisions of this Article are designed to provide performance standards by which applications for non-residential development will be evaluated by the Town and by which the actual performance of those operations will be monitored by the Town for compliance. The purposes of these performance standards are to protect the Town in general, and abutting and neighboring landowners in particular, from any potential negative impacts that new non-residential uses may have on the physical environment and on the quality of life currently enjoyed by the residents of the Town of Vass and its extraterritorial jurisdiction.

11.2 Landscaping

The purpose of this section is to improve property values and community appearance, allow for the ecological benefits provided by plants, prevent the overcrowding of land and enhance the privacy and welfare of citizens.

A. Application

1. The landscaping and buffering standards of this section shall apply to proposed development for which a site plan is required.

2. All requirements shall run with the land use and shall apply against any owner or subsequent owner.

3. Land used toward achieving the requirements shall be on the same lot or on property under the same permanent possession or control as the lot on which the use is located.

4. Multifamily projects shall meet these requirements.

B. Standards

In addition to the provisions of this ordinance governing screening, buffering and/or shading found elsewhere, the following requirements shall apply to property that is to be developed for any use other than single family.

1. The required building setback area shall be appropriately landscaped as provided for herein. The total square footage of the required building setback area shall be determined by multiplying the footage of the property along the street, road, highway (front yard setback), side property line or rear property line times the required building setback depth, as applicable.

a. Front Yard Setback Area

1. One large tree (unless subject to overhead power lines along the street/road or railroad, in which case understory trees may be selected) shall be planted at the rate of one three-inch caliper tree with a minimum height of eight feet per 30 or less linear feet of property line abutting a public street/road or railroad. Large trees are defined as deciduous or evergreen trees with a mature height of 30 feet or greater and a mature spread of 30 feet or greater.

2. One understory tree or large shrub with a minimum height of eight feet, at the time of planting, shall be required per 500 square feet. At least 30% of such trees must be deciduous and at least 40% of such trees must be evergreen, which must, when mature be at a height of 10 to 20 feet.

3. One shrub with a minimum height of 18 inches, at the time of planting and of a variety that can be expected to reach a minimum height of 36 inches within five years of planting shall be required per 200 square feet. No more than 30% of such shrubs may be deciduous. To meet height requirements, a landscaped earth berm may also be used.

b. Side and Rear Yard Setback Area

1. One understory tree or large shrub with a minimum height of eight feet, at the time of planting, shall be required per 500 square feet. At least 30% of such trees must be deciduous and at least 40% of such trees must be evergreen, which must, when mature, be at a height of 20 to 30 feet.

2. One shrub with a minimum height of 18 inches at the time of planning and of a variety that can be expected to reach a minimum height of 36 inches within five years of planting, shall be required per 200 square feet. Not more than 30% of such shrubs may be deciduous.

c. Additionally, shrubs with a minimum height of 18 inches at planting and of a variety that can be expected to reach a minimum height of 36 inches within five years of planting shall be required along the front and all sides of all buildings which can be seen from the street, road or highway.

d. The landscaping requirements of this section, and as required elsewhere in this ordinance, may be satisfied by preexisting trees and shrubs, newly planted trees and shrubs or a combination of both.

C. Additionally, the planting of new trees or maintenance of preexisting trees elsewhere on the lot or parcel (beyond those required by this ordinance), which conserve and/or enhance the appearance of the lot or parcel is encouraged.

D. The owner of any property where landscaping is required shall be responsible for the maintenance of all required vegetation and the replacement of any required tree or shrub that dies. Landscaped areas shall be kept in a neat and orderly manner, free from refuse and debris. Failure to comply with the landscaping requirements set forth herein shall be remedied in accordance with the enforcement provisions of this ordinance.

E. Notwithstanding any of the above, no trees or shrubs are required in any area of a lot for which sight clearance for vehicles is required or where entrance and/or exit driveways are located.

F. Native or xeriscaping trees shall be used in; refer to the State Champion by the North Carolina Forest Service or the American Forestry Association;

11.3 Screening and/or Buffering

Screening and/or buffering between two lots lessens the transmission from one lot to another of noise, dust, glare and visual pollution. Even minimal screening and/or buffering can provide an impression of separation of spaces and more extensive screening can shield one use from the visual assault of an adjacent use.

Table 11-1, in conjunction with the explanations in A. Descriptions of Screens/Buffers establishes screening requirements that, presumptively, satisfy general standards. However, this table is only intended to establish a presumption and should be flexibly administered in accordance with other material elsewhere in this screening section.

The zoning districts contained in Table 11-1 are keyed to each other to show the presumptuous screening/buffering required where one zoning district adjoins another

zoning district. The letter designations refer to the types of screening/buffering as described in A. Descriptions of Screens/Buffers.

To determine the type of screen and/or buffering needed on a given lot or parcel of land:

1. Determine how the lot in question is zoned, using the left side column as a reference;
2. Determine how the adjoining lot(s) or parcel(s) of land is zoned and then use the top row as a reference;
3. Follow the column of zoning classification to the right as you follow the adjoining property classification from the top; and
4. The letter type of A, B, or C at the point of intersection determines the type of screen and/or buffering needed and is keyed to the three descriptions of screening as described in A. Descriptions of Screens/Buffers.

A. Descriptions of Screens/Buffers

The following three basic types of screens are hereby established and are used as the basis for the Table of Screening Requirements set forth in Table 11.1.

Opaque Screen, Type A. A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The portion of intermittent visual obstructions may contain deciduous plants.

Semi-Opaque Screen, Type B. A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The zone of intermittent visual obstruction may contain deciduous plants.

Broken Screen, Type C. A screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species or field observation of existing vegetation. The screen may contain deciduous plants.

Table
11.1 TABLE OF SCREENING AND/OR BUFFERING REQUIREMENTS

	R	MU	I and IL	HC	RA
R	C	A	A	A	C
MU	A	C	B	B	A
I	A	B	C	B	A
HC	A	B	B	C	A
RA	C	A	A	A	C

R represents Residential and includes R-1 and R-2 Zoning Districts
B represents Business and includes MU Zoning District
I represents Industrial Zoning District and the Industrial Light Zoning District
HC represents Heavy Commercial Zoning District
RA represents Residential Agriculture Zoning District

A represents opaque screen
B represents semi-opaque screen
C represents broken screen

B. Flexibility in Administration Required.

The Board of Commissioners recognizes that, because of the wide variety of types of developments and the relationships between them, it is neither possible nor prudent to establish inflexible screening requirements. Therefore, as provided in this section, the permit-issuing authority may permit deviations from the presumptive requirements of A. Descriptions of Screens/Buffers and may require either more intensive or less intensive screening whenever it finds such deviations are more likely to satisfy the standard set forth in the screening and/or buffering are of this ordinance without imposing unnecessary costs to the developer. Without limiting the generality of division A. Descriptions of Screens/Buffers, the permit-issuing authority may modify the presumptive requirements for:

1. Commercial developments located adjacent to residential in business zoning districts;
2. Commercial uses located adjacent to other commercial uses within the same zoning district; and
3. Uses located within planned unit developments.

Whenever the permit-issuing authority allows or requires a deviation from the presumptive requirements set forth in A. Descriptions of Screens/Buffers, it shall enter on the face of the permit the screening requirement that it imposes to meet the standard set forth in this subchapter and the reasons for allowing or requiring the deviation.

C. Combination of Uses.

In determining the screening requirements that apply between a combination use and another use, the permit-issuing authority shall proceed as if the principal uses that comprise the combination use were not combined and reach its determination accordingly, replying on the table set forth in A. Descriptions of Screens/Buffers.

When two or more principal uses are combined to create a combination use, screening shall not be required between the component principal uses unless they are clearly separated physically and screening is determined to be necessary to satisfy the standard set forth in A. Descriptions of Screens/Buffers.

D. Exception

When undeveloped land is subdivided and undeveloped lots only are sold, the subdivider shall not be required to install any screening and/or buffers. Screening shall be required, if at all, only when the lots are developed and the responsibility for installing such screening shall be determined in accordance with the other requirements of this subchapter.

11.4 Smoke, Dust, Fumes, Vapors, Gases, and Odors

A. Emission of smoke, dust, dirt, fly ash, or other particulate matter, or noxious, toxic or corrosive fumes, vapors, or gases in such quantities as to be evident or perceptible at the property line of any lot on which a use is conducted, or that could be injurious to human health, animals, vegetation, or that could be detrimental to the enjoyment of adjoining or nearby properties, or that could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited.

B. No use shall be permitted to produce harmful, offensive, or bothersome odors, scents, or aromas (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, fish sales, rendering, fermentation processes, decaying organic matter, and incinerators) perceptible beyond the property line of the lot where such use is located either at ground level or any habitable elevation.

C. The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, scents or aromas shall be shown on the application plans, with a description of the source materials.

11.5 Ground Water Supply

A. All outdoor storage facilities for fuel, chemical, or industrial waste, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike high enough to contain the total volume of liquid kept in the storage area, plus the accumulated rainfall of a fifty (50) year storm. This requirement is intended to prevent harmful materials from spilling and seeping into the ground and contaminating the groundwater.

B. Non-corrosive storage tanks for heating oil and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from the requirements of this Section provided that there is no seasonal high-water table within four (4) feet of the surface, and that rapidly permeable sandy soils are not present.

11.6 Air Pollution

A. Any operations or uses involving manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandising, and equipment (either in, or outside of, fully enclosed buildings); automobile repair or body shops; or retail sales establishments with subordinate manufacturing and processing facilities that emit any “air contaminant” (as defined in NCGS 143-213 (Definitions)) shall comply with applicable State standards concerning air pollution, as set forth in Article 21B (Air Pollution Control) of Chapter 143 (State Departments, Institutions, and Commissions) of the North Carolina General Statutes.

B. No Zoning Compliance Permit or Special Use Permit may be issued with respect to any development covered by Subsection A until the State Division of Environmental Management has certified to the permit issuing authority that the appropriate State permits have been received by the developer (as provided in NCGS 143-215.108 (Control of Sources of Air Pollution; Permits Required)) or that the developer will be eligible to receive such permits, and that the development is otherwise in compliance with applicable pollution laws.

11.7 Disposal of Liquid Wastes

A. No operations or uses involving manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandising, and equipment (either in, or outside of, fully enclosed buildings); automobile repair or

body shops; or retail sales establishments with subordinate manufacturing and processing facilities in any district may discharge any waste contrary to the provisions of NCGS 143-214.2 (Prohibited Discharges).

B. No operations or uses involving manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandising, and equipment (either in, or outside of, fully enclosed buildings); automobile repair or body shops; or retail sales establishments with subordinate manufacturing and processing facilities in any district may discharge into the County sewage treatment facilities any waste that cannot be adequately treated by biological means.

11.8 Electrical Disturbance or Interference

No operations or uses involving manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandising, and equipment (either in, or outside of, fully enclosed buildings); automobile repair or body shops; or retail sales establishments with subordinate manufacturing and processing facilities may:

1. Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or

2. Otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

11.9 Exterior Lighting

There are two (2) characteristics of light which are commonly referred to as glare. One is the illumination or amount of light falling on a unit surface. The other is the intensity of light at the source. Both of these factors are a function of the wattage of a given light source, the type and design of the luminaire, and the height of the light source. The illumination regulations set forth in this section, are designed to ensure that no light is emitted above a horizontal line parallel to the ground. In order to achieve total cutoff at ninety (90) degrees, a luminaire shall emit maximum candlepower at an angle not exceeding seventy-five (75) degrees.

A. ILLUMINATION NUISANCE PROHIBITED.

No activity on private property shall generate light that creates a nuisance to surrounding properties, as determined by the Zoning Administrator.

B. ILLUMINATION STANDARDS.

The following standards are required of all pole-mounted exterior lighting except the outdoor recreational uses specifically exempted. Many uses have the option of providing a lower post with a non-cutoff type luminaire or a higher pole, up to fifty (50) feet, with a luminaire that totally cuts off light spillover at a cutoff angle smaller than ninety (90) degrees. The maximum height of light post permitted is dependent upon the amount of cutoff provided. This is designed as a protection against excessive glare and light spilling over to neighboring properties.

1. EXTERIOR LIGHTING.

Exterior lighting shall meet one of the following standards:

(a) Luminaries with No Cutoff:
- (1) Residential Properties:
  - A Maximum permitted height of fifteen (15) feet.
  - B. Maximum permitted illumination of two-tenths (0.20) foot-candle.
- (2) Non-residential properties:
  - A. Maximum permitted height of luminaire of twenty (20) feet.
  - B. Maximum permitted illumination of three-tenths (0.30) foot-candle.

(b) Luminaries With Total Cutoff Angle Greater Than Ninety (90) Degrees:
- (1) Residential Properties:
  - A. Maximum permitted height of luminaire of twenty (20) feet.
  - B. Maximum permitted illumination of five-tenths (0.50) foot-candle.
- (2) Non-residential Properties:
  - A. Maximum permitted height of luminaire of forty (40) feet.
  - B. Maximum permitted illumination of one (1.0) foot-candles.

(c) Luminaries with Total Cutoff of Angle Less Than Ninety (90) Degrees. Luminaries with a total cutoff of angle less than ninety (90) degrees and located so the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five (5) feet above ground at the point where the cutoff angle intersects the ground, then the maximum permitted illumination and the maximum permitted height of the luminaire shall be as follows:
- (1) Residential Properties:
  - A. Maximum permitted height of luminaire of twenty-five (25) feet.

B. Maximum permitted illumination of one (1.0) foot-candle.

(2) Nonresidential Properties:

A. Maximum permitted height of luminaire of fifty (50) feet.

B. Maximum illumination of one (1.0) foot-candles.

(d) Requirements for Stadiums. Because of their unique requirements for providing greater night-time visibility, their need to ensure public safety, and their limited hours of operation; stadiums (which include ball diamonds, playing fields, and tennis courts) are exempted from the exterior lighting standards as specified in (a), (b), and (c) above. A lighting plan for stadiums shall be established at the time that the request for exterior lighting is made. Each lighting plan shall take into consideration the follow standards:

(1) The height of the stadium light shall be the minimum height necessary to provide thirty (30) foot-candles of illumination on the playing surface, but shall not exceed one hundred (100) feet in height. The height of the stadium light may be increased if the resulting illumination will reduce glare and spillover illumination.

(2) The distance from any adjacent residential property to the stadium light pole shall be at least one and one half (1 1/2) the height of the luminaire. Public rights-of-way which fall between a stadium light and adjacent residential property may be used to calculate this minimum distance.

(3) To the maximum extent possible, existing mature vegetation shall be maintained to screen residential properties from effects of stadium lighting.

C. Lighting Plan

Measurement/Exterior Lighting Plan. When any exterior lighting is to be installed or substantially modified and/or whenever a zoning certificate is sought in which exterior lighting is to be used, an exterior lighting plan illustrating photometric pattern and foot-candle levels shall be submitted to the Land Use Administrator that certifies the level of illumination required in this section.

Article 12, SUPPLEMENTAL REQUIREMENTS FOR SPECIFIC USES

12.1 Application of Supplemental Requirements for Specific Uses

The supplemental standards listed herein are additional to other requirements in this Ordinance. These requirements are use specific and apply to certain uses permitted with a Zoning Compliance Permit or a Special Use Permit. Uses requiring a Special Use Permit shall be subject to these standards and any additional standards or conditions required by this Ordinance and the granted Special Use Permit.

12.2 Adult Day Care Facility

A. A floor plan of the proposed adult day care facility showing the use and dimensions of each room and the location of entrances and exits shall be submitted with the application.

B. The lot on which the adult day care facility is located shall have access onto an arterial or collector street in residential zoning districts.

C. The minimum requirements to qualify for a State of North Carolina Adult Day Care Facility License shall be satisfied.

D. A statement from the appropriate public service agencies concerning the method and adequacy of water supply and wastewater treatment for the proposed use shall be submitted with the application.

E. A statement from the appropriate public service agencies concerning the provision of fire, police and rescue protection to the site and structures shall be submitted with the application.

F. Adequate access to and from the site, as well as adequate space off the road right-of-way, is provided for the safe pick-up and discharge of clients and is provided in such a manner that traffic generated by the facility is not disruptive to adjacent residentially developed properties.

G. Fencing and/or screening shall be provided that assures the protection of clients receiving care, protects adjacent residentially developed properties from trespass, effectively screens the view of any outdoor recreational areas, and reduces noise associated with the operation of the use.

H. Building plans for all building areas intended for public use shall be reviewed and approved by the Fire Marshal and Moore County Building Inspections prior to the issuance of any Certificates of Occupancy. In those cases where a Certificate of Occupancy is not required, the applicant shall schedule a site inspection with the Fire Marshal and Building Inspector and

submit documentation of site approval to the Administrative Officer prior to commencing the operation.

12.3 Agricultural and Farming Operations Including Livestock

A. New farm buildings designed to house livestock shall be located at least fifty (50) feet from any property line.

B. Stables shall be at least one hundred (100) feet from any off-site residences. Pens, chicken coops, corrals or similar enclosures where livestock are kept, shall be located at least one hundred (100) feet away from any property line. Drainage shall be provided for the pen or enclosure so as not to create areas for breeding flies or mosquitoes. Grazing land shall be exempt from this regulation.

C. The minimum site size for an animal feeding operation is three (3) acres.

D. Chickens may be kept for purposes other than as part of a bona fide agricultural operation, provided that they shall be allowed only in the RA, R-1 and R-2 zoning districts subject to the following additional requirements.

1. **Maximum Number of Animals.** Any number of chickens may be kept on a single lot, provided the minimum acreage requirement is one chicken per 5000 square feet of lot area is met.
2. **Additional Requirements for Chickens.**

    a. Chickens are the only type of domestic fowl permitted pursuant to this ordinance.
    b. Roosters are prohibited.
    c. Chickens, roosters and other domestic fowl living outside the planning and zoning jurisdiction of the town may be brought into the town planning and zoning jurisdiction for temporary events such as festivals and other special events, provided that no such fowl shall be allowed to remain for more than three (3) days.
    d. Coops and yarding areas (i.e., the areas where chickens roam outside the coop) shall be located in back yards or pastures/fields located to the rear of a dwelling. No coop or yarding area may be located in a front or side yard, pasture or field.
    e. Chickens shall be kept in coops at night time, but they may be allowed to roam during the day in the yarding area.
    f. Coops and yarding areas shall be fully enclosed by a perimeter fence. Coops shall be located within the yarding area and shall be set back either a minimum of thirty (30) feet from solid perimeter fencing or a minimum of one hundred (100) feet from open wire perimeter fencing.
    g. Slaughter is not allowed.
    h. Provided that the requirements of this section are met, no certificate of zoning compliance shall be required for coops or yarding areas.
    i. Nonconforming situations: The effective date of this ordinance is November 9, 2015. Coops and yarding areas that were lawful prior to the effective date of this ordinance shall be subject to Article 2, Nonconforming Situations, of this code. The owners of coops and

yarding areas that were unlawful prior to the effective date of the ordinance shall have six (6) months from the effective date to bring said coops and yarding areas into conformity with this ordinance. Roosters living within the planning and zoning jurisdiction of the town as of the effective date of this ordinance may remain until they die, but they shall not be replaced. Chickens or other domestic fowl living within the planning and zoning jurisdiction of the town as of the effective date of this ordinance that are illegal or lawful nonconformities with respect to this ordinance may remain until they die, but they shall not be replaced. **[Am. Ord. 11/9/15]**

E. The keeping of miniature goats (also known as Pygmy, Dwarf, and Miniature Goats with a maximum weight of 100 pounds) as pets on premises zoned for single family dwellings or developed with a single family dwelling on lots 20,000 square feet or larger is allowed subject to the following requirements:

1. All miniature goats shall be dehorned.
2. Male goats shall be neutered.
3. No more than, and no less than two miniature goats shall be kept on the premises, except that offspring may be kept onsite up to twelve weeks from birth. This language presumes that a professional offsite breeder is used.
4. Miniature goats shall be housed in a shed designed to be:
    a. Predator-proof;
    b. Thoroughly ventilated;
    c. Easily accessed and cleaned;
    d. Watertight and draft free;
    e. A minimum of 10 square feet of interior space; and
    f. Located at least 40 feet from property lines.
5. Direct access to an outdoor enclosure shall be provided with the outdoor enclosure designed to be:
    a. Secured with a solid minimum five (5) foot tall fence;
    b. A minimum of 400 square feet;
    c. Secured from the outside in a manner that prevents the miniature goats from escaping;
    d. Free of objects that would enable the goats to climb out of the enclosure; and
    e. Easily accessed and cleaned.
6. The owner of the miniature goats shall sign a statement that the goats cannot present a nuisance to adjoining property owners due to: escaping goats, noise, owner, flies, dead animals or any noncompliance with this section. If three such events happen in one rolling calendar year, the goats shall be removed from the property and cannot be replaced until changes are made and the town is assured that such events will not occur again.

12.4 Arcade/Game Room ***(Amended 2/14/11)***

A. Subject to the requirements of Chapter 6 Amusements and Entertainment of the Town of Vass Code of Ordinances.

12.5 Automatic Teller Machine, Freestanding

A. The machine shall be located in such a fashion that vehicles using or waiting to use such machine do not interfere with vehicles seeking to enter or leave parking areas.

B. Where it is necessary for patrons wishing to park to use such machines to cross a drive-through lane, crosswalks leading from parking areas to the machine face shall be clearly marked.

C. Freestanding automatic teller machines shall be provided with two (2) stacking spaces.

D. Where no street separates the use from residentially zoned property, at least seventy-five (75) feet of separation shall be maintained between the residential lot line and the drive-through lane of the automatic teller machine.

12.6 Automobile Repair Shop or Body Shop

A. Buildings shall be located forward towards the street and parking and vehicle storage areas shall be located to the rear of the lot whenever possible. Applicable setbacks shall be observed.

B. Hazardous materials and byproducts such as fuel, lubricants, antifreeze (ethylene glycol), asbestos, freon, carbon monoxide, automobile batteries, and solvents must be registered, stored, handled, and disposed of in accordance with all State and Federal regulations.

C. All such uses shall be subject to the performance standards listed in Article 11 (Non-Residential Performance Standards), Sections 11.2 (Smoke, Dust, Vapors, Gases, and Odors) through 11.6 (Electrical Disturbance or Interference).

D. Any vehicle stored on a lot where such use occurs must have a valid registration, be stored in a substantially enclosed structure, or located within a fenced or walled enclosure. Fences and/or walls used for such enclosure shall be at least six (6) feet in height and completely opaque.

E. The Fire Marshal shall review and approve a submitted fire protection plan submitted by the applicant.

F. No outdoor servicing, repair or disassembly of vehicles shall be permitted.

G. Outside storage of secondhand material for resale shall be prohibited.

12.7 Automobile Service Stations

A. A minimum lot size of twenty thousand (20,000) square feet shall be provided. If the rental of trucks, trailers, etc. is proposed as an accessory use, the minimum lot size required shall be increased by ten thousand (10,000) square feet.

B. The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one (1) cut on the higher classified street. Additional cuts shall be on streets of lower classification. Driveway Permits shall be approved by the North Carolina Department of Transportation (NCDOT) for access to State roads.

C. Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids.

D. Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto-washing equipment, and similar equipment shall be entirely enclosed within a building.

E. No outside storage of materials shall be permitted. The number of vehicles stored outdoors shall not exceed the number of service bays at the establishment.

F. There shall be no more than two (2) gasoline service islands.

G. A maximum of three thousand (3,000) feet of gross floor area shall be permitted on the lot.

H. Certification by a registered, licensed engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.

I. The Fire Marshal shall review and approve a submitted fire protection plan submitted by the applicant.

J. All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty (20) feet from any adjacent property lines.

K. A lighting plan shall be submitted that allows for minimum brightness for safety and that also includes fixture details, light intensity contours and overlap, and a statement regarding light trespass on adjacent properties. No lights should shine into oncoming vehicles.

L. No automobile service station shall be located within two hundred (200) feet of any pre-existing school, playground, church, library or community center as measured from any point on the property line.

M. No portion of any building or associated equipment shall be closer than twenty-five (25) feet to any property line.

N. Buildings shall be located forward towards the street and parking and vehicle storage areas shall be located to the rear of the lot whenever possible.

12.8 Automobile Towing and Wrecker Service

A. All principal and accessory towing and wrecker service uses must meet the requirements contained herein.

1. Any outdoor vehicle storage area shall be located a minimum of one-hundred (100) linear feet from any street right-of-way and two-hundred (200) linear feet from any residential zoning district.

2. If the lot containing the use is located within three-hundred (300) feet of a residential zoning district, a Special Use permit shall be required.

3. All damaged and wrecked vehicles must be parked in delineated parking spaces.

4. No more than 10 vehicles may be stored **outside** at any one time.

5. Vehicle storage facilities shall not be located at an elevation whereby the storage is visible from a public street after the required screening is in place.

6. In all residential and mixed use zoning districts, whenever a storage area faces a public street, the following requirements shall apply:

a. All screening requirements must be sufficiently opaque to materially screen the storage area at the time the certificate of occupancy is issued.

12.9 Bed and Breakfast Establishments

A. The following information shall be submitted as part of the application:

1. A description of the proposed use(s) of the site and the buildings thereon, including the following:

a. Amount of area allocated to each use;
b. Number of full and part-time employees;
c. Number of clients and/or occupants expected to use the facility;
d. Proposed hours of operation for non-residential uses of the site and within buildings thereon.

B. The use must be owned and operated by a resident owner.

C. The use shall be located in a structure that was originally constructed as a dwelling.

D. Meals served on the premises shall be for guests of the facility only.

E. A statement from the appropriate public service agencies concerning the method and adequacy of water supply and wastewater treatment for the proposed use shall be submitted as part of the application.

F. A statement from the appropriate public service agencies concerning the provision of fire, police and rescue protection to the site and structures shall be submitted with the application.

G. Outdoor events (e.g., weddings, receptions, parties) or similar activities conducted for compensation shall be permitted only if there is sufficient overflow parking available on site. Overflow parking does not have to be paved or graveled but must be on a suitable, even surface.

H. Building plans for all building areas intended for public use shall be reviewed and approved by the Fire Marshal and Moore County Building Inspections prior to the issuance of any Certificates of Occupancy. In those cases where a Certificate of Occupancy is not required, the applicant shall schedule a site inspection with the Fire Marshal and Building Inspector and submit documentation of site approval to the Administrative Officer prior to commencing the operation.

I. Proposed uses and facilities shall be complementary and compatible with the surrounding area, and appropriate in the location proposed given the character of surrounding development.

J. Each lodging unit shall have direct access to a hall or exterior door.

K. Rooms shall not be equipped with cooking facilities.

L. Parking shall not be permitted in front yards.

M. A proposed bed and breakfast establishment shall not be located within four hundred (400) feet of an existing bed and breakfast establishment.

12.10 Billiard Parlor, Pool Room ***(Amended 2/14/11)***

A. Subject to the requirements of Chapter 6 Amusements and Entertainment of the Town of Vass Code of Ordinances.

B. Requires a Special Use Permit.

12.11 Bingo Games ***(Amended 2/14/11)***

A. Subject to the requirements of Chapter 6 Amusements and Entertainment of the Town of Vass Code of Ordinances.

B. Requires a Special Use Permit.

12.12 Car Wash

A. A minimum lot size of twenty thousand (20,000) square feet shall be provided.

B. No outdoor lighting, other than shielded security-type lighting, shall be allowed after 10:00 PM Sunday through Thursday, and after 11:00 PM Friday and Saturday.

C. The application shall include a plan for staffing of the facility in a manner that will assure that the facility shall be well maintained, with provisions for the regular collection of litter and debris during each day of operation, for regular care of the landscaping, for adequate protection of the equipment and structures from vandalism, and for the protection and safety of the customers.

D. The lot shall front on an arterial or collector street and have direct access thereto.

E. Driveways for car washes shall not be located so as to impede the safe operation of any intersection.

F. All proposals for car wash facilities shall demonstrate the provision of adequate drainage systems.

12.13 Cemetery (Commercial)

A. A minimum lot size of one hundred thousand (100,000) square feet shall be provided.

B. Evidence that the requirements of the North Carolina General Statutes, Chapter 65 (Cemeteries), and that the standards of the North Carolina Cemetery Commission can be achieved shall be submitted with the application.

C. The site shall have direct access to a collector or arterial street. No more than three (3) access points shall be permitted, and no more than one (1) access point shall be open at any one (1) time, unless two (2) or more funerals are being conducted within the cemetery.

D. There shall be adequate space within the site for the parking and maneuvering of funeral entourages and cortege at each proposed burial site.

E. No interments shall take place within thirty (30) feet of any exterior lot line.

F. All interior vehicular access and maneuvering spaces shall be paved.

12.14 Child Day Care Facility

A. A floor plan of the proposed child day care facility showing the use and dimensions of each room and the location of entrances and exits shall be submitted with the application.

B. The lot on which the child day care facility is located shall have access onto an arterial or collector street in residential zoning districts.

C. Evidence that the facility will meet the minimum requirements to qualify for a State of North Carolina Child Day Care Facility License are satisfied shall be submitted with the application.

D. A statement from the appropriate public service agencies concerning the method and adequacy of water supply and wastewater treatment for the proposed use shall be submitted with the application.

E. A statement from the appropriate public service agencies concerning the provision of fire, police and rescue protection to the site and structures shall be submitted with the application.

F. Evidence shall be submitted indicating that adequate access to and from the site, as well as adequate space off the road right-of-way, is provided for the safe pick-up and discharge of clients and is provided in such a manner that traffic generated by the facility is not disruptive to adjacent residentially developed properties.

G. Fencing and/or screening shall be provided that assures the protection of clients receiving care, protects adjacent residentially developed properties from trespass, effectively screens the view of any outdoor recreational areas, and reduces noise associated with the operation of the use. Fences used for screening shall be at least six (6) feet in height and shall be located outside of any street right-of-way, driveways, and parking areas.

H. Building plans for all building areas intended for public use shall be reviewed and approved by the Fire Marshal and Moore County Building Inspections prior to the issuance of any Certificates of Occupancy. In those cases where a Certificate of Occupancy is not required, the applicant shall schedule a site inspection with the Fire Marshal and Moore County Building Inspector and submit documentation of site approval to the Administrative Officer prior to commencing the operation.

I. The minimum play area for Child Day Care Facilities shall be as required by the North Carolina Child Day Care Licensing Agency.

J. In residential zoning districts, child day care facilities shall not be operated between the hours of 7:00 PM and 6:00 AM.

12.15 Convenience Store

A. A minimum lot size of twenty thousand (20,000) square feet shall be provided. If the rental of trucks, trailers, etc. is proposed as an accessory use, the minimum lot size required shall be increased by ten thousand (10,000) square feet. The site plan shall indicate the area to be used for display. Spaces for rental vehicles and accessories shall be in addition to any

parking spaces required for operation of other operations. Rental activities shall not occupy more than fifty percent (50%) of the lot area.

B. The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one (1) curb cut on the higher classified street. Additional curb cuts shall be on streets of lower classification. Driveway Permits shall be approved by NCDOT for access to State roads.

C. Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids.

D. There shall be no more than sixteen (16) pumps.

E. A maximum of three thousand (3,000) feet of gross floor area shall be permitted on the lot.

F. Certification by a registered, licensed engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.

G. The Fire Marshal shall review and approve a submitted fire protection plan submitted by the applicant.

H. All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty (20) feet from any adjacent property lines.

I. A lighting plan shall be submitted that includes fixture details, light intensity contours and overlap, and a statement regarding light trespass on adjacent properties. No direct sources of light shall be detectable from exterior property lines or a public right-of-way.

J. Food service is authorized as an accessory use, provided it does not exceed twenty (20) percent of the floor area of the building.

12.16 Convenience Store, Drive-Through

A. A minimum lot size of twenty thousand (20,000) square feet shall be provided. If the rental of trucks, trailers, etc. is proposed as an accessory use, the minimum lot size required shall be increased by ten thousand (10,000) square feet. The site plan shall indicate the area to be used for display. Spaces for rental vehicles and accessories shall be in addition to any parking spaces required for operation of other operations. Rental activities shall not occupy more than fifty percent (50%) of the lot area.

B. The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one (1)

curb cut on the higher classified street. Additional curb cuts shall be on streets of lower classification. Driveway Permits shall be approved by NCDOT for access to State roads.

C. Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids.

D. There shall be no more than sixteen (16) pumps.

E. A maximum of three thousand (3,000) feet of gross floor area shall be permitted on the lot.

F. Any entrance/exit doors for pedestrian customer use, if provided, shall be located in such a manner that a person entering/exiting such business is not required immediately to cross a drive-through entrance and/or exit lane.

G. Drive-through areas shall be located in such a fashion that vehicles using or waiting to use such drive-through areas do not interfere with vehicles seeking to enter or leave parking areas.

H. Where it is necessary for patrons wishing to park and enter such businesses to cross a drive-through area, crosswalks leading from parking areas to building entrances shall be clearly marked.

I. A building housing a drive-through convenience store shall not be located closer than one thousand (1,000) feet to the nearest point of another building housing the same type of store.

J. A minimum of six (6) stacking spaces shall be provided for the facility. One (1) parking space for each employee on the largest shift shall be provided.

K. Certification by a registered, licensed engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.

L. The Fire Marshal shall review and approve a submitted fire protection plan submitted by the applicant.

M. All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty (20) feet from any adjacent property lines.

N. A lighting plan shall be submitted that includes fixture details, light intensity contours and overlap, and a statement regarding light trespass on adjacent properties. No direct sources of light shall be detectable from exterior property lines or a public right-of-way.

12.17 Drive-In Windows, Businesses With

A. The entrance/exit doors of such uses shall be located in such a manner that a person entering/exiting such business is not required immediately to cross a drive-in window exit lane.

B. Drive-in windows shall be located in such a fashion that vehicles using or waiting to use such drive-in or drive-through facilities do not interfere with vehicles seeking to enter or leave parking areas.

C. Where it is necessary for patrons wishing to park and enter such businesses to cross a drive-in window lane, crosswalks leading from parking areas to building entrances shall be clearly marked.

D. Fast food restaurants and drive-in banks shall be provided with six (6) stacking spaces per window. Laundry and dry cleaning services shall be provided with three (3) stacking spaces per window. Film kiosks shall be provided with two (2) stacking spaces per window on each side of the kiosk. The Town Board of Commissioners shall determine the required number of stacking spaces for those uses not specified in this Section.

12.18 Electronic Game Promotions ***(Amended 2/14/11)***

A. Subject to the requirements of Chapter 6 Amusements and Entertainment of the Town of Vass Code of Ordinances.

B. Requires a Special Use Permit.

C. Prohibited as an accessory use as specified in Section 9.2.A.

D. Maximum number of terminals/machines is 20.

12.19 Elementary, Middle, and Secondary Schools (Including Associated Grounds and Athletic and Other Facilities

A. Site plans submitted for review shall include the following information:

1. Total student capacity of the school as designed;
2. Total number of employees on the largest shift;
3. Number and dimensions of designated parking spaces for school buses;
4. Number of designated parking spaces for employees, visitors, and students;
5. Location of student drop off points with stacking spaces identified;
6. Location of all proposed and future athletic fields and structures, including the total number of seats for spectators and the location of concession stands, if any are anticipated:

7. Proposed public roadway improvements;
8. Existing and proposed infrastructure improvements (water and sewer).

9. A lighting plan shall be submitted indicating the locations of outdoor lighting fixtures and ensuring that outdoor lighting from athletic field and security lighting will not spill over onto adjacent properties.

10. A report indicating estimated water usage for structures, landscaping, and athletic fields shall be submitted with the application.

B. The project shall meet all applicable requirements of this Ordinance and the Town of Vass Subdivision Regulations.

C. The project shall meet all service provision criteria as set forth below:

1. Fire – identifies the primary and secondary responders and the source(s) of water.

2. Police – identifies the primary and secondary responders.

3. Rescue Services – identifies the primary and secondary responders.

4. Water Supply – identification of public or private utility source and capacity of water supply or identification of water source through a water resource study.

5. Wastewater Treatment Method – provider and capacity of wastewater treatment source.

D. The minimum lot size shall be, with respect to non-charter public schools, as required by the School Construction Standards adopted from time to time by the Moore County Board of Education. The lot size shall be adequate to accommodate all activities. The proposed manner to handle the maximum number of participants and patrons for any single event shall be provided while also adhering to safe vehicular and pedestrian circulation.

E. Access to the school project shall be via existing public roads. A Driveway Permit issued by NCDOT shall be required when the site takes access from a State maintained road.

F. There shall be a minimum of two (2) access points to the site. Access points shall separate student drop-off areas and visitor parking from bus traffic. If school buses are used, then at least one (1) access shall be limited to school employee and bus use during normal school hours. All access points shall be located to provide maximum visibility and safety. No driveway shall be permitted in a location that will hinder or congest traffic movement on a public street.

G. The site shall be designed so as to take advantage of shared use opportunities, such as use for parks and recreation activities as needed by the Moore County Parks and Recreation Department.

H. The maximum building height shall be three (3) stories, or forty (40) feet, whichever is less.

I. All State permits and licenses that are required for the facility or evidence that the facility can meet all requirements shall be submitted with the application.

12.20 Event Venue

(A) An event venue may be established to hold weddings, parties, and other celebrations if the following requirements are met:

1. Such uses shall not be placed in any required yard or setback.

2. Adequate facilities, such as parking and restrooms, shall be provided for the events and all existing uses on the property.

3. No required landscaped areas or screen areas shall be encroached upon or occupied by the event use.

4. Vehicular travel ways shall not be blocked in a manner in which emergency vehicle response would be affected.

5. A site plan, containing sufficient information to show compliance with the above standards, must be submitted to and approved by the Town Administrator.

6. If adjacent residential uses will be affected or it is deemed that the use will have community-wide impact, the application may be forwarded to the Board of Commissioners for review.

12.21 Family Care Home

No family care home shall be located within one-half (1/2) mile of another family care home. The distance shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line for the lot on which the existing facility is located.

12.22 Family Child Care Home

A. Family Child Care Homes shall not accept children for care between the hours of 7:00 PM and 7:00 AM.
B. All such uses shall meet any and all applicable regulations for Home Based Businesses, and shall be issued a Home Based Business Permit for operation.

12.23 Forestry and Timbering Operations

A. This Section shall not apply to the following:

1. Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes; or

2. Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

See, G.S. 160D-921.

B. A minimum of five (5) acres shall be required for forestry operations.

C. A forest management plan shall be prepared in accordance with the most current edition of Forest Practices Guidelines Related to Water Quality published by the North Carolina Department of Environment and Natural Resources, Division of Forest Resources and the applicable provisions of this Ordinance. The forest management plan shall include, but not be limited to, the following information:

1. A detailed description of the property to be timbered including its current condition, characteristics of adjacent property, influence on water quality, identification of cultural and historical resources, and the presence of any environmentally sensitive features;

2. A narrative description of all harvesting procedures, techniques for harvesting in sensitive areas, the location of main haul roads, skid trails, potential log landings and stream or drainage crossings, and timing of harvest;

3. A reforestation plan, if required; and

4. A depiction of all required buffer areas.

D. Where stump removal, grubbing, or other soil disturbing activities are proposed in conjunction with tree harvesting, except those preparations for reforestation that are in accordance with the approved forest management plan, an erosion and sedimentation control plan shall be submitted to and approved by the North

Carolina Department of Environment and Natural Resources, Division of Land Quality, prior to commencement of any soil disturbing activity.

E. All specimen and/or rare trees shall be protected and preserved during and after tree harvesting.

F. Fifty (50) foot buffers within which no timbering shall occur shall be provided along all public roads, and twenty-five (25) foot buffers shall be provided along the side and rear property lines. Fifty percent (50%) of the crown cover within the side and rear yard buffers may be harvested.

G. Streamside buffer zones at least fifty (50) feet in width, within which no timbering may occur, shall be preserved on each side of all perennial and intermittent streams and perennial water bodies. Upon request, the permit issuing authority may approve harvesting fifty percent (50%) of the crown cover within the streamside buffer zone accompanied by a fifty percent (50%) increase of the streamside buffer zone to one hundred (100) feet. This request must be accompanied by a recommendation of approval from the North Carolina Department of Environment and Natural Resources, Division of Forest Resources.

H. All property that is forested or timbered shall be replanted with seedling trees, within one (1) year or the next growing season after the forestry operation is completed, unless the applicant can provide sufficient evidence to the permit issuing authority as to why reforestation is not required. This provision shall not apply to property that is converted to a bona fide agricultural or improved pasture use.

I. If trees are removed from the buffer areas in excess of the provision of Subsections E and F, the property owner shall be responsible for replanting the number removed with two and one-half (2½) inch caliper trees. This provision shall not be deemed to preclude cutting or thinning necessitated by disease or infestation and recommended by the North Carolina Department of Environment and Natural Resources, Division of Forest Resources.

J. Permits issued for Forestry and Timbering Operations shall be posted in a location that is clearly visible from a public road right-of-way.

12.43 Golf Course (Independent and Country Club)

A. Uses permitted in conjunction with an approved golf course may include the following:

1. Maintenance buildings, including equipment and materials storage areas, repair shops, offices, locker rooms, restrooms and/or showers;

2. Clubhouses, including locker rooms, restrooms, showers, storage areas, offices, dining rooms, kitchens, lobby areas, waiting and coat rooms, exercise rooms, sauna baths, steam rooms, massage rooms, handball and racquetball courts, and bar and lounge areas;

3. Pro shops, including sale of athletic equipment and clothing, athletic equipment service, storage and repair areas, snack bars, and/or short order grills, offices, and general storage areas. Pro shops may be operated in conjunction with a club house facility or separate from a club house. In the latter situation, a pro shop may also include facilities normally found in association with it. Such facilities may include but not be limited to a bar and lounge area, locker rooms, restrooms and showers;

4. Spectator stands or bleachers;

5. Rest stations or shelters;

6. Golf cart storage areas;

7. Practice greens and driving ranges;

8. Tennis courts;

9. Swimming and wading pools and diving areas.

B. A minimum lot size of sixty (60) acres shall be provided for each nine (9) hole regulation golf course. A minimum lot size of twenty-five (25) acres shall be provided for each nine (9) hole executive golf course. A minimum lot size of twenty (20) acres shall be provided for each nine (9) hole par-three (3) golf course. Golf courses having more than nine (9) holes shall meet the minimum lot area requirement for each type of course noted above.

C. All parking and loading areas shall be graded and drained so as to dispose of all surface water without erosion or flooding.

D. Storm sewers and water and sewage disposal systems shall be designed by a registered, licensed engineer. All utilities shall be installed underground.

E. A lighting plan shall be submitted with the application. Lighting, if provided, shall be so designed and located as to be directed away from residential areas or shielded to protect such areas.

F. A construction time and phasing schedule for the facility shall be submitted with the application.

12.25 Golf Driving Range Not Accessory to a Golf Course

A. The following information shall be submitted as part of the application:

1. A site plan showing all existing and proposed buildings, tee areas, lawn areas, and distances to nearest residential structures;

2. Access road(s) to the site, as well as on-site parking and roads, with an indication of the type of proposed surface.

B. Unless public sewer is proposed to be extended, the adequacy for the method of sewage disposal will be determined by the lot size and soil suitability. Appropriate letters from the Moore County Environmental Health Department, local jurisdictions and/or State Division of Environmental Management shall be submitted to indicate preliminary approval.

C. A fifty (50) foot wide planted buffer shall be observed around the perimeter of the property and shall not be included in the required dimensional area required for the use.

D. The depth of a range along a driving axis shall be not less than three hundred-fifty (350) yards measured from the locations of the tees, and the breadth not less than two hundred (200) yards at a distance of three hundred-fifty (350) yards from the tee.

E. Service to customers shall be halted at dusk. Lighting of the driving and practice range is not permitted.

F. Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the driving area so as to prevent golf balls from leaving the driving area.

G. The amount of noise generated shall not disrupt the activities of the adjacent land uses.

12.26 Group Care Home

A. The proposed facility shall not be located within one-half (1/2) mile of an existing group care home. The distance shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line for the lot on which the existing facility is located.

B. Operators shall have a license, permit or letter of approval from the State of North Carolina agency responsible for supervising and issuing approvals for the type of group care home being requested.

12.27 Home-Based Business

A. No home-based business shall be conducted until an application for a Home-Based Business Permit has been reviewed and approved by the Administrative Officer or their designee. The application shall include the following:

1. The address of the property;

2. The resident's name;

3. The owner's name (if different than resident);

4. The type of business and business activities;

5. Parcel Identification Number (PIN) and Tax Identification Number, and LRK/Land Records Number;

6. The number of employees;

7. The location and area of the home-based business;

8. The vehicles used in the home-based business;

9. The number of expected customer visits per day and at any one (1) time.

10. Moore County Environmental Health approval where the home based business will be located on property served by an on-site septic system.

B. The Home-Based Business Permit is valid but must be renewed if business's footprint or activities expand or meaningful alter. The home-based business activities shall not use more than twenty-five percent (25%) of the total gross floor area of the principal residential structure. The Administrative Officer has the right to inspect the home-based business and premises to check for compliance with the home-based business regulations.

C. Customer/client visits to the home-based business are limited to the hours of 8:00 AM to 8:00 PM. The home-based business shall not generate more than ten (10) customer/client visits in any one (1) day and no more than two (2) customers/clients can be present at any one (1) time.

D. The home-based business shall have no more than one (1) non-resident employee on the premises at any one (1) time. The number of non-resident employees working at locations other than the home-based business is not limited.

E. Delivery vehicles used to deliver goods to home-based businesses are limited to passenger vehicles, mail carriers, and express carriers such as UPS (United Parcel Service). Deliveries shall be permitted between 8:00 AM and 8:00 PM.

F. Hme-based business shall be limited to the parking/storage of one (1) commercial vehicle on the premises, not exceeding a one (1) ton capacity.

G. Home-based businesses are not required to provide any additional parking beyond what is required for the residential use.

H. The equipment used by and the operation of the home-based business shall not create any vibrations, heat, glare, dust, odors, smoke, or noise discernable at the property lines,create any electrical, magnetic or other interference off the premises, consume utility quantities that negatively impact the delivery of those utilities to surrounding properties, or use and/or store hazardous materials in excess of quantities permitted in residential structures.

I.

12.28 Horse Stable (Private and Public)

A. A minimum of five (5) acres of land is required with a maximum limit of one (1) horse per acre of pasture land.

B. All stables and fences shall be kept in good repair and in a neat and clean condition.

C. No part of any manure storage area shall be closer than one hundred-fifty (150) feet from a property line.

12.29 Horticultural Sales with Outdoor Display

Notwithstanding any other provisions of this Ordinance, if horticultural sales with outdoor display are proposed for any lot less than five thousand (5,000) square feet in an area that was in existence on the effective date of this Ordinance, then on-site parking shall not be required if the permit issuing authority determines that on-site parking is not feasible or practical or is undesirable from the standpoint of traffic safety.

12.30 Hotels and Motels

A. The lot shall have direct access to an arterial or collector street.

B. The minimum setback from property lines adjoining residentially zoned property or residential uses for buildings and parking shall be fifty (50) feet. A sight obscuring hedge or berm shall be installed along the property line adjacent to residentially zoned or used property.

B. Accessory commercial activities such as restaurants and outdoor recreation facilities such as swimming pools shall not be located along the side of the property that adjoins residentially zoned or used property.

12.31 Indoor Archery Range

A. No archery activities may occur outside of the building.
B. The building shall be designed such that no one entering into the building or shooting area can be placed in harm's way.
C. The Police Department shall review the design to ensure that public safety can be assured.
D. All applicable county approvals, shall be received before the indoor archery range may be used.

12.32 Industry, Major

A. Extractive Industry

1. Extractive Industry. An extractive industry use (including, mining, quarrying, or drilling) shall comply with the following standards:

(a) Setbacks

(1) The following features shall be located at least 50 feet from any lot line:

(i) The edges of a pit where an extraction operation is located;

(ii) Any equipment used in the processing of rock or gravel; and

(iii) Any asphalt plant or other industrial use operated in conjunction with an extraction use.

(2) In an instance where the extraction operation site is bounded by a railroad right-of-way, no setback is required between the railroad right-of-way and the extraction operation.

(b) A security fence, a minimum of 6 feet in height, shall be provided around the perimeter of both an existing and abandoned extraction operation.

(c) Rehabilitation

(1) Within 1 year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner;

(2) Except in an instance where redevelopment for another permitted use is in progress on the site of an abandoned extractive industry use:

(i) Excavations shall be graded to reduce the surface to gently rolling topography in substantial conformity to the land area immediately surrounding the site; and planted with a cover of sod, trees, shrubs, legumes, or grasses, which will minimize erosion; and

(ii) The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to obstruct any existing drainage course.

(d) An operation involving blasting that is discernible beyond the exterior property line of the use shall only be conducted between the hours of 7:00 AM and 6:00 PM.

(e) Access

(1) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition;

(2) Access shall be located no closer than 15 feet to any abutting property line other than a railroad right-of-way line; and

(3) A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

C. Asphalt Plant. An asphalt plant shall comply with the following standards:

(a) Setbacks. An asphalt plant shall be located at least 50 feet from a property line.

(b) Security Fencing. A security fence, a minimum of 6 feet in height, shall be provided around the use.

(c) Rehabilitation

(1) Within 1 year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner;

(2) On the site of an abandoned asphalt plant the site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course, except in an instance where redevelopment for another permitted use is in progress.

(d) Access

(1) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.

(2) Access roads shall be located no closer than 15 feet from an abutting property line.

(3) A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

12.33 Industry, Minor

A. Outdoor storage shall not be located within the setbacks or a required perimeter landscape yard.

B. Outdoor storage shall not exceed 75 percent of the property.

C. Outdoor storage areas shall be screened with an opaque fence, wall or approved landscaping. Equipment shall be screened to prevent off-site views.

D. Storage of hazardous, toxic, or explosive substances shall be prohibited.

12.34 Kennels

A. A description of the methods of construction of pens and kennels in order to minimize noise and promote healthful conditions, including construction materials, fencing and climate control shall be submitted with the application.

B. No part of any building, structure, or runway in which animals are housed or exercised shall be closer than one hundred-fifty (150) feet from a property line, except property occupied by the owner/operator of the kennel. The minimum

distance from a property line shall be fifty (50) feet if all portions of the facility in which animals are housed are wholly enclosed within a building.

C. Any kennel that is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height, including primary enclosures or runs.

D. The site plan for the proposed facility shall be reviewed by the NC Department of Agriculture Veterinary Division and a letter to this effect submitted with the application.

E. Building plans for all kennel facilities shall be reviewed and approved by the NC Department of Agriculture Veterinary Division prior to the issuance of any Zoning Compliance Permits.

F. The facility shall be designed in a manner to minimize visual contact between animals and outside influences. The number of windows and doors shall be kept to a minimum. The facility shall be air conditioned and provided with heat.

G. A sign clearly visible from the ground shall be posted at the main entrance to the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with the requirements set forth in Article 14 (Signs) of this Ordinance.

H. Where required by the Moore County Animal Control Ordinance, a Kennel Permit shall be obtained within the first thirty (30) days of occupancy. Failure to obtain and maintain a valid Kennel Permit or other related permits that may be required by the NC Department of Agriculture Veterinary Division will result in revocation of the permit issued by the Town.

I. Runs shall be constructed to NC Department of Agriculture Veterinary Division requirements. The open side of the run must be screened from public view.

J. A waste treatment plan shall be submitted to and approved by the Moore County Environmental Health Department.

K. There shall be no noise generating activities between the hours of 6:00 PM and 8:00 AM.

12.35 Manufactured Homes, Class A (double-wide or multi-sectional)

A. The manufactured home has a length not exceeding four (4) times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

B. The manufactured home has a minimum of one thousand (1,000) square feet of enclosed and heated living area,

C. The pitch of the manufactured home's roof has a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction,

D. All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter,

E. The exterior siding consists predominantly of vinyl or aluminum lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, stucco, or masonry, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction,

F. The manufactured home has a continuous**,** permanent masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, is installed under the perimeter of the manufactured home,

G. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the North Carolina State Building Code and shall be attached firmly to the primary structure and anchored securely to the ground, and

H. The moving hitch, wheels and axles, and transporting lights have been removed.

These criteria are to be met prior to issuance of a Certificate of Occupancy for the home by the Administrative Officer.

12.36 Manufactured Homes, Class B (single-wide)

A. When located in a manufactured home park, the manufactured home shall be underpinned and skirted with vinyl or other approved skirting materials recommended by the manufacturer, un-pierced except for required ventilation and access,

B. When located on an individual lot, the manufactured home shall have a continuous, permanent masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, and shall be installed under the perimeter of the manufactured home,

C. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the North Carolina State Building Code and shall be attached firmly to the primary structure and anchored securely to the ground, and

D. The moving hitch, wheels and axles, and transporting lights have been removed.

E. The manufactured home has a minimum of 980 square feet of enclosed and heated living area.

These criteria are to be met prior to issuance of a Certificate of Occupancy for the home by the Administrative Officer.

12.37 Manufactured Home Parks

A. A minimum lot size of ten (10) acres with at least ten (10) manufactured home spaces shall be provided.

B. Each manufactured home space shall contain at least five thousand (5,000) square feet of land area, and shall be established on the ground by permanent monuments or markers.

C. The maximum density of any manufactured home park shall not exceed two (2) units per acre in watershed protected areas, and one (1) unit per acre in watershed critical areas. Impervious surface limits shall apply as specified in Section 13.4 (Impervious Surface Limits).

D. No manufactured home shall be located less than forty (40) feet from a public street right-of-way. No manufactured home shall be located less than twenty-five (25) feet from the centerline of an interior park road or any exterior park boundary. No manufactured home shall be located less than thirty (30) feet from another manufactured home, a manufactured home addition, or any other residential or non-residential structure.

E. No more than one (1) manufactured home may be placed on an individual manufactured home space.

F. A plan of the proposed manufactured home park, prepared by a licensed, registered architect, engineer, or professional land surveyor, drawn to a scale of one inch equals fifty feet (1”=50’) or greater shall be submitted with the application. The plan shall show the following:

1. The boundary of the tract with accurate linear and angular dimensions and the acreage of the tract;

2. Title, north arrow, scale, names and addresses of the owner, developer, professional preparing the plan, and date of plan preparation;

3. A location map showing the general location of the development in relation to surrounding streets and residential and commercial areas;

4. All existing and proposed topography at contour intervals of five (5) feet or less;

5. The names, proposed location and approximate dimensions of proposed streets, alleys, driveways, entrances, exits, walkways, easements, recreation areas, park and open space reservations, manufactured home spaces and stands, and building lines within the park;

6. The locations of existing and platted property lines, streets, buildings, watercourses, railroads, bridges, water mains, sewers, culverts, drain pipes, and any utility easements, both on land to be developed and on land immediately adjoining the tract. The names of adjoining subdivisions and/or property owners, including those across the street from the subject property, shall also be shown;

7. Profiles of all proposed public or private streets showing natural and finished grades drawn to a scale of not less than one inch equals forty feet (1" = 40') horizontal and one inch equals four feet (1" = 4') vertical;

8. Plans of proposed utility layouts (sewer lines, septic tank and drainfields, and water and storm drainage) showing connections to existing and proposed utility systems;

9. Proposed storm drainage for each manufactured home space and the entire development including all proposed grading and sewer installations that may be deemed necessary to insure proper drainage and the elimination of ponding;

10. A detailed drawing at a scale of not less than one inch equals five feet (1" = 5') of a typical manufactured home space showing the location of the manufactured home stand, all utility locations and connections, walks, parking spaces, driveways, garbage storage areas, and all other improvements;

11. A plan for all electrical installations prepared to meet the State Electrical Code, and all other local codes and ordinances;

12. The location, size, and type of plantings and screening materials;

13. Impervious surface data.

G. Interior Manufactured Home Park Roads

1. The manufactured home park shall be provided with hard-surfaced roads or streets that directly abut all manufactured home spaces, and that are not less than eighteen (18) feet wide and located within a thirty (30) foot right-of-way. Road surfaces may be asphalt, concrete, or tar and gravel;

2. Dead-end streets shall be designed as cul-de-sacs and shall not exceed five hundred (500) feet in length measured from the centerline of the intersecting street to the center of the bulb of the cul-de-sac right-of-way. Closed ends of dead-end streets shall be provided with a vehicular turnaround at least sixty-five (65) feet in diameter in a right of way of at least seventy-five (75) feet in diameter;

3. All roads within the manufactured home park shall intersect a public street or an interior manufactured home park street;

4. No manufactured home space shall have direct access to a public street;

5. Drainage ditches are required and a three-to-one (3:1) back slope shall be provided along all public streets or interior manufactured home park streets;

6. Where public streets are provided, they shall meet the requirements of the Town of Vass or the North Carolina Department of Transportation (NCDOT), whichever is applicable, including street connection requirements.

H. Utilities and Sanitation

1. The manufactured home park and all occupied units must be connected to Moore County's public water and sewer system. The applicant shall submit, with the Special Use Permit application, evidence that water and/or sewer plans have been submitted to the Moore County Department of Public Utilities to ensure that the proposal will meet the requirements of the Department's Main Extension Policy. If water and/or sewer are not available, approved sewage disposal plans, as approved by the Moore County Environmental Health Department or the North Carolina Department of Environment and Natural Resources (NCDENR), shall be submitted with the application. It shall be the responsibility of the property owner to maintain the water and/or septic system(s) until such time as sewer is available and connection is made;

2. Each space shall have and maintain operational hook-up facilities for water, sewer, and electricity. Plumbing and electrical connections shall be grouped together within the manufactured home stand;

3. All garbage and refuse in every manufactured home park shall be stored in suitable water tight and fly proof metal or plastic receptacles that shall be kept covered with closely fitting covers. It shall be the duty of the manufactured home park operator to make certain that all garbage and refuse are regularly disposed of in a sanitary manner;

4. Grounds, buildings, and structures shall be maintained free of insect and rodent infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the Moore County Health Department. In addition, the growth of brush, weeds and grass shall be controlled to prevent harborage to ticks, chiggers, and other noxious insects. Open areas shall be maintained free of heavy growth of any description;

5. Storm sewers, sanitary sewer and water systems for all manufactured home parks shall be approved by Moore County Public Works and shall be designed by a registered, licensed engineer. Storm sewers, sanitary sewers and water systems shall be installed in accordance with Moore County Public Works specifications and standards. Should

private water and sewerage systems be provided, such shall meet the requirements of the North Carolina Department of Environment and Natural Resources (NCDENR). Where utilities are to be dedicated to the Moore County, as-built drawings of the facilities shall be presented to Moore County Public Works upon completion;

6. The manufactured home park shall be located so as not to be susceptible to flooding and graded so as to prevent any water from ponding on the premises. Where storm drainage pipes are located adjacent to streets, underground drainage facilities with connections to the storm drainage system shall be provided for the manufactured home park;

7. Each manufactured home stand and space shall be graded to provide adequate storm drainage away from the manufactured home and such that there will exist no more than a three (3) foot difference between the chassis of the manufactured home and the finished grade of the manufactured home stand along the entire perimeter of the manufactured home proper;

8. Electric, cablevision, and telephone wires shall be installed underground.

I. Recreation Area Requirements

1. Adequate and suitable recreation areas to serve the needs of the anticipated population shall be provided and shall consist of at least the following:

a. One (1) or more play lots for pre-school children shall be provided. There shall be a minimum area requirement of twelve hundred (1,200) square feet for each one hundred (100) manufactured homes, with the minimum size of any single facility limited to four hundred (400) square feet;

b. One (1) or more playgrounds for school age children. There shall be a minimum area requirement of one (1) acre for each one hundred (100) manufactured homes, with the minimum size of any single facility limited to ten thousand (10,000) square feet.

J. Landscaping and Buffers

The manufactured home park shall have a planting strip of at least ten (10) feet in width adjacent to the park boundary extending along the entire perimeter of the manufactured home park. The planting strip shall not be a portion of any manufactured home space, street, or interior park street. It shall be planted with evergreen and/or deciduous trees not more than forty (40) feet apart and adequately landscaped with grass and shrubbery. Trees planted shall be six (6) feet in height at the time of planting. Existing vegetation may be used to satisfy the buffer requirement.

K. Other Requirements

1. Storage Buildings

Each manufactured home space may be equipped with a storage building not to exceed one hundred forty-four (144) square feet gross floor area provided that all such buildings are located in the rear yard and at least ten (10) feet from the side and rear manufactured home space and property lines.

2. Tie Down and Anchoring Requirements

Manufactured homes shall be securely anchored to the ground by means of a tie down system. When the manufactured home is factory equipped with a tie down system designed by a registered, licensed architect or engineer, then the owner is to use the manufacturer's set of instructions as the standard for property tie down procedures. If no such set of instructions is available, or if the system has not been designed by a registered, licensed architect or engineer, then the set of instructions for tie down procedures listed in the State of North Carolina Regulations for Mobile Homes booklet, as amended, and published by the North Carolina Department of Insurance will be followed.

3. Storage of Possessions

Storage of possessions and equipment in the area beneath a manufactured home shall be prohibited.

4. Skirting

Each manufactured home shall be installed with skirting manufactured specifically for such use. The skirting shall be made of a material compatible with the siding of the manufactured home.

5. Fire Prevention and Detection

In addition to any fire prevention regulations of the Town of Vass, the following shall apply:

a. The park owner shall install a fire extinguisher in each building open to the public and in the park office;

b. The park owner or operator shall maintain the park area free of rubbish, dry brush, leaves, weeds and any other materials that might communicate fires between manufactured homes and other buildings.

6. Manufactured Home Park Maintenance

Manufactured home park owners and operators shall be required to provide adequate supervision to maintain the park in compliance with the requirements of this Ordinance. Further, manufactured home park operators shall keep all park

owned facilities, improvements, equipment and all common areas in good repair and maintained in such a manner as to prevent the accumulation or storage of materials that would constitute a fire hazard, or would cause insect and rodent breeding and harborage.

7. Placement and Anchoring

Operators shall be required to supervise the placement of all manufactured homes to guarantee that they are properly anchored and attached to utilities.

8. Assist County Tax Supervisor

Operators shall be required to comply with NCGS 105-316 (Reports By House Trailer Park, Marina, and Aircraft Storage Facility Operators), (a), (1), that requires, as of January 1st of each year, each operator of a park renting lots for six (6) or more manufactured homes furnish to the County Tax Supervisor the names of the owners of, and description of, each manufactured home located in the park.

9. Travel Trailers

Travel trailers will not be permitted for living quarters.

10. The manufactured home park may have a central structure containing a retail sales counter or coin operated machines for the park residents' use only, provided it is completely enclosed and there is no exterior advertising, and provided such structures shall not front on a public street.

11. The manufactured home park may have a resident manager's office and residence in combination or separately. The office shall meet the same setback requirements as individual manufactured homes.

L. Manufactured Home Park Operating Permit Required

1. It shall be unlawful for any person to maintain or operate a manufactured home park within the jurisdiction of this Ordinance unless such person shall first obtain from the Administrative Officer a Manufactured Home Park Operating Permit renewable every three (3) years;

2. The Manufactured Home Park Operating Permit shall be issued, and subsequently renewed, if the Administrative Officer finds that all the provisions of this Ordinance are being met;

3. At the time of renewal, if the park is not in compliance with the operating standards, the Administrative Officer shall issue a Temporary Manufactured Home Park Operating Permit for a period of three (3) months to permit the park owner/operator to comply with the standards. If corrective action has not been completed at the expiration of the

temporary permit, the park owner shall be considered to have chosen not to comply with the standards and shall be notified he/she is in violation of this Ordinance.

12.38 Manufactured Housing Sales

A. At least sixty percent (60%) of the property must remain open land.

B. A setback of at least fifteen (15) feet from any exterior property line, including road/street rights-of-way, is required.

C. There shall be a twenty (20) foot separation between manufactured homes and between a manufactured home and any other structure on the site.

D. No manufactured home sales and display lot may be located within five thousand (5,000) feet of another manufactured home sales lot.

E. Banner signs shall not be permitted on the site.

F. The submitted site plan shall show the placement plan for the manufactured homes to be displayed on site.

12.39 Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembly of Goods, Merchandise, and Equipment Where Operations are Conducted Entirely Within or Outside of Fully Enclosed Buildings

A. No such use may emit from a vent, stack, chimney, or combustion process any smoke that is visible to the naked eye.

B. No such use may generate noise that tends to have an annoying or disruptive effect upon uses located outside the immediate space occupied by the proposed use.

C. No such use may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at the outside boundary of the immediate space occupied by the enterprise generating the vibration.

D. The use shall not generate any odor that reaches the odor threshold measured at the outside boundary of the immediate space occupied by the enterprise generating the odor, or the lot line if the enterprise generating the odor is the only enterprise located on the lot.

E. The Permit shall not be issued until the North Carolina Department of Environment and Natural Resources, Division of Air Quality, has certified to the permit-issuing authority that the appropriate State permits have been received by the applicant, or that the applicant will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

F. The use shall not discharge any radiological, chemical, or biological waste into surface or subsurface waters.

G. The use shall not discharge any waste into the County sewer system, or a septic tank that cannot be adequately treated by biological means.

H. The use shall not create electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

12.40 Mobile Vendors

A. With the exception of Subsection B. below, mobile vendors are limited to the sales of seasonal products such as Christmas trees, pumpkins and farm produce. The seasonal sales of Christmas trees and pumpkins is also regulated by Section 12.55.

B. Mobile food vendors may be allowed in any zoning district as part of a special event authorized by the Town Board, and Town Board may vary the standards established in Section 12.65 as part of approval of a special event.

C. Mobile vendors operating on private property must have written permission from the property owner.

D. The use must be located no closer than forty (40) feet of an intersection or twenty (20) feet of a driveway or entrance.

E. With the exception of Subsection B. above, only one vendor may operate on a property at a time.

F. Hours of operation are limited from 8 a.m. to 10 p.m.

G. The mobile vendor vehicle and surrounding property shall be maintained in a safe and clean manner at all times.

H. No free standing or banner signs shall be displayed.

I. No tables, chairs, or other site furniture shall be permitted.

12.41 Mobile Food Vendors

A. Mobile food vendors may be allowed in any zoning district as part of a special event authorized by the Town Board.

A. Mobile food vendors may operate at fixed locations in the HC district adjacent to old US 1 subject to receipt of a zoning permit. They are not allowed within the HC district anywhere else within the zoning jurisdiction of Vass.

C. Mobile food vendors operating on private property are subject to Sections D, E, and F below.

D. Siting Requirements

1. A maximum of one (1) mobile food vendor shall be located on a Lot or Parcel.

2. Mobile food vendors shall be located a minimum of one hundred (100) feet from the main entrance to any eating establishment or similar food service business, one hundred (100) feet from any outdoor dining area, and two hundred (200) feet from a religious establishment unless associated with said religious establishment as measured from the designated location on the Lot or Parcel accommodating the food truck, trailer or cart.

3. Food trucks, trailers and carts shall be located a minimum distance of fifteen (15) feet from the edge of any driveway or public sidewalk, utility box or vaults, handicapped ramp, building entrance, exit or emergency access/exit, emergency call box or fire hydrant.

4. Food trucks, trailers and carts shall not be located within any area of the Lot or Parcel that impedes, endangers, or interferes with pedestrian or vehicular traffic.

5. Food trucks, trailers and carts shall not occupy any parking spaces required to fulfill the minimum requirements of the principal use, unless the Principal Use's hours of operation do not coincide with those of the food truck business or the current parking demand does not require the use of the spaces. Nor shall any mobile food vendor occupy parking spaces that may be leased to another business.

6. Food trucks, trailers and carts shall not occupy any handicap accessible parking space as specified in G.S. 20-37.6.

E. Operations

1. No freestanding signage or audio amplification shall be permitted as part of the food truck, trailer or cart vending operation.

2. Hours of operation of food trucks, trailers and carts shall be limited to the hours between 6:00 a.m. and 8:00 p.m., unless the designated location on the lot accommodating the use is located within one hundred (100) feet of the property line of a single-family or duplex dwelling, in which case the hours of operation shall be limited to the hours between 7:00 a.m. and 7:00 p.m.

3. When open for business, the food truck, trailer or cart operator, or his or her designee, must be present at all times, except in cases of an emergency.

4. The food truck, trailer or cart vendor is responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Vendors shall remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor shall keep all areas of the permitted lot free and clean of grease, trash, paper, cups, cans or other materials associated with the vending operation. No liquid waste or grease is to be disposed in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of in the Town's sanitary sewer system.

5. All equipment required for the operation shall be contained within, attached to or within twenty (20) feet of the food truck, trailer or cart. All food preparation, storage, and sales-distribution shall be in compliance with all applicable County, State and Federal Health Department sanitary regulations.

F. Permits Required

1. A Town zoning permit shall be obtained by the vendor. It must include permission from the property owner (as listed in the Moore County, North Carolina property tax records) for any Lot or Parcel proposed to accommodate a mobile food vending operation. If at any time evidence is provided that the permitted Lot or Parcel is being used other than in compliance with these regulations, the zoning permit shall be rendered null and void, and the owner shall be punished for such violation as hereinafter set forth. This zoning permit shall be required to be renewed annually.

2. Prior to the issuance of the permit, the vendor shall provide evidence of having obtained a Town zoning permit (as described in paragraph (1), a food vending permit from the Moore County Environmental Health Department, a North Carolina Sales and Use Certificate for collecting and paying the proper sales taxes, and a means for the disposal of grease, if grease will be generated, within an approved grease disposal facility.

3. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the zoning permit shall be rendered null and void, and the business shall be required to cease operation immediately.

4. Copies of all permits shall be kept in the food truck, trailer or cart at all times.

5. If at any time, the Moore County Environmental Health Department revokes or suspends the issued food vending permit, the Town permit for mobile food vending operation shall be revoked or suspended simultaneously.

12.42 Motor Vehicle Sales and Rental or Sales and Service

A. A written description of the proposed operation, including square footage, number of employees, hours of operation, and activities expected on site shall be submitted with the application.

B. A lighting plan including fixture details, light intensity contours and overlap, and a statement regarding light trespass shall be submitted with the application.

C. The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one (1) cut on the higher classified street. Additional cuts shall be on streets of lower classification. Driveway Permits shall be approved by NCDOT for access to State roads.

D. The Fire Marshal shall review and approve a submitted fire protection plan prior to commencement of the operation.

E. Vehicles shall not be parked within fifteen (15) feet of any street or road right-of-way.

12.43 Movie Theater, Indoor

A. The use shall have direct access to an arterial or collector street.

B. Accessory uses such as snack bars associated with the theater shall be for patrons of the theater only.

12.44 Multi-Family Dwellings (Multi-Family Townhomes, and Multi-Family Apartments)

A. Multi-family dwellings permitted in any Mixed Use zoning district shall be located on a lot meeting the minimum lot size requirement of the residential zoning

districts. The maximum density and impervious surface ratio for the tract shall not be exceeded.

B. The minimum spacing between one (1) story multi-family structures shall be twenty (20) linear feet. The minimum spacing between two (2) story multi-family structures shall be thirty (30) linear feet.

C. Any group of buildings forming a courtyard shall have at least twenty-five percent (25%) of the perimeter of the courtyard open for access by emergency vehicles.

D. Townhome developments with 10 or more proposed units are required to provide additional off-street guest and resident parking, if no on-street public parking is available.

E. Developments shall include pedestrian connectivity within the development and to the outside edges to connect with neighboring properties, where feasible.

F. Multi-family developments shall meet the landscaping requirements for non-residential projects.

G. Rear-loaded garages and alleys are highly encouraged.

12.45 Neighborhood Utility Facilities

A. As provided in Article 8 (Permitted Uses), neighborhood utility facilities located within a public right-of-way, with the permission of the owner of the right-of-way (State or Town), do not require a Zoning Compliance or Special Use Permit.

B. Neighborhood utility facilities may be located on any size lot without regard to the minimum lot size requirements set forth in this Ordinance. However, if a substandard size lot is created after the effective date of this Ordinance to accommodate neighborhood utility facilities, then such lot shall not thereafter be regarded as a legitimate nonconforming lot for purposes of Section 6.2 (Nonconforming Lots). The plat creating such a substandard lot shall bear a notation indicating that the use of the substandard lot is restricted to utility purposes by this Section.

C. Neighborhood utility facilities shall be permissible in any district only if such facilities:

1. Do not exceed six (6) feet in height; and
2. Do not generate any noise, smoke, odor, vibration, electrical interference, or other disturbance that is perceptible beyond the boundaries of the lot where such facilities are located, or that adversely affects the use of adjoining or neighboring properties.

12.46 Night Clubs, Bars, Breweries, and Taprooms

A. A statement shall be submitted with the application giving a detailed description of the type of operation proposed, including types and frequency of live entertainment or amplified sound systems, the maximum design occupancy of the building, the number of employees, and the hours and days of operation.

B. The noise level outside of the structure shall not exceed sixty-five (65) decibels.

C. Live entertainment or amplified music shall cease no later than 12:00 AM.

D. When adjacent to an existing residential use, the primary entrance shall face a street or other non-residential use, or utilize landscaping or other screening be provided between the residence and the establishment.

12.47 Nursing Care Homes and Institutions

A. A minimum lot size of two (2) acres shall be provided.

B. There shall be eight thousand (8,000) square feet of lot area for the first nine (9) beds, rooms, or suites, plus one thousand (1,000) square feet for each additional patient bed, room, or suite, or the minimum lot area requirement for the zoning district, whichever is greater.

C. The use shall be set back fifty (50) feet from all property lines, including road rights-of-way. There shall be a separation of twenty (20) feet between buildings.

D. Off-street parking and loading areas shall be screened from adjoining single-family residential uses by a densely planted planting strip. Plantings shall be at least six (6) feet in height at the time of planting.

12.48 Open Air Markets (Farm and Craft Markets, Flea Markets, Produce Market)

A. There shall be no sales of fuel and related products, tobacco products, alcoholic beverages, vehicles or related products.

B. Open air market uses shall be required to have off-street parking with adequate ingress and egress with an area for turn-around. A minimum of one (1) parking space per two hundred (200) square feet of selling and display area shall be provided, with a minimum of two (2) spaces provided. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. Overflow parking shall, at a minimum, be grass covered.

C. There shall be a twenty (20) foot setback between the street right-of-way line and the front of the sales area, excluding production facilities, garden plots, planting beds and outdoor storage areas open to the public. No parking is allowed within the front yard setback or within twenty (20) feet of the edge of roadway, whichever distance is less. Setbacks from side property lines shall be twenty (20) feet. There shall be a rear setback of forty (40) feet from rear property lines.

D. Where an open air market use is located on a separate parcel of land, maximum lot coverage by buildings shall be twenty-four percent (24%). Total coverage, including parking areas, shall not exceed seventy percent (70%), if the property has received Special Intensity Allocation from the Board of Commissioners.

E. Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other town signage regulations may apply. No rotating or flashing lights on advertising signage shall be permitted.

F. No outdoor lighting shall produce glare beyond the boundary of the property.

G. Adequate facilities, such as parking and restrooms shall be provided for the market and all existing uses on the property.

H. No required landscaped areas or screen areas shall be encroached upon or occupied by the market.

I. Vehicular travel ways shall not be blocked in a manner in which emergency vehicle response would be affected.

J. A site plan, containing sufficient information to show compliance with the above standards, must be submitted to and approved by the Town Administrator or Board of Commissioners.

12.49 Park, Athletic and Community

A. A description of the type of facilities planned, the number of athletic fields or interest areas proposed, and the maximum number of people the facility is designed to serve shall be submitted with the application.

B. A description of how the facility will operate in terms of ownership, openness to the public, expected users, maintenance, and expected hours of operation shall be submitted with the application. Non-profit owners/operators shall provide their identification number from the North Carolina Department of Revenue at the time of permit application.

C. An outdoor lighting plan, if applicable, shall be submitted with the site plan.

D. The outside boundary of all outdoor playing fields, including but not limited to baseball fields, basketball courts, tennis courts, soccer fields, and football fields, shall not be located closer than one hundred (100) feet to any residential structure located on property adjacent to the site. If no residential structures are located on adjacent property, the outside boundary of the playing field shall be fifty (50) feet from the property line. All structures associated with outdoor recreation activities shall be outside the setback required for the district in which the use is proposed. Such structures shall include, but not be limited to, back stops, basketball or football goals, soccer goals, pavement for tennis or basketball courts, batting cages, as well as picnic shelters, tables, swings, barbecue grills and playground equipment.

E. The lot size shall be adequate for the improvement proposed or required, and provide protection of adjacent properties by screening and fencing. In particular, the permit issuing authority shall find that the adjacent property is protected from undue glare from outdoor lighting and trespass by participants going to and from the park.

F. Security of park users and surrounding properties shall be addressed by balancing screening and visual access into the park from adjacent lots and rights-of-way.

G. All proposed restroom facilities shall be adequate for the maximum number of participants expected.

H. The type of illumination for playing fields shall be designed and located to minimize the impact of glare on adjacent property. All outdoor illumination associated with playing fields shall cease at 10:00 PM.

12.50 Park, Neighborhood

A. A description of the type of facilities planned, the number of athletic fields or interest areas proposed, and the maximum number of people the facility is designed to serve shall be submitted with the application.

B. A description of how the facility will operate in terms of ownership, openness to the public, expected users, maintenance, and expected hours of operation shall be submitted with the application. Non-profit owners/operators shall provide their identification number from the North Carolina Department of Revenue at the time of permit application.

C. An outdoor lighting plan, if applicable, shall be submitted with the site plan.

D. The lot size shall be adequate for the improvements proposed or required, and provide protection of adjacent properties by screening and fencing. In particular, the permit issuing authority shall find that the adjacent property is protected from

undue glare from outdoor lighting and trespass by participants going to and from the park.

E. Security of park users and surrounding properties shall be addressed by balancing screening and visual access into the park from adjacent lots and rights-of-way.

F. All proposed restroom facilities shall be adequate for the maximum number of participants expected.

G. All outdoor lighting shall be designed and located to minimize the impact of glare on adjacent property and be extinguished when not in use.

12.51 Petroleum Products (Storage and Distribution)

A. A minimum lot size of one (1) acre shall be provided.

B. A detailed written description of the types of products to be stored on the site, including the amounts to be stored, method of initial delivery, method of retail distribution, and method and means of securing the site to prevent accidents and vandalism, shall be submitted with the application.

C. An emergency response plan for accidents, including but not limited to fires, spills, and ruptures shall be submitted with the application.

D. A plan showing the distance to the nearest fire hydrant (including the size of the line serving the hydrant), and indicating the proposed system of drainageways and dikes to retain any substances that may leach or spill from storage vessels shall be submitted with the application.

E. The amounts of petroleum products to be stored on the site shall not exceed the capacity of the site to protect adjacent property from harm in an emergency. The proposed methods of handling the material shall be in accordance with accepted practices.

F. The Fire Chief and/or Fire Marshal shall review and accept an emergency response plan. A statement shall be submitted with the application indicating that either the applicant has sufficient material to respond to an emergency or the Fire Department has the existing capacity to respond.

G. No existing structures on adjacent property shall be closer than one hundred-fifty (150) feet to any proposed storage vessel. No vessel shall be closer than one hundred (100) feet to a property line. Existing bulk storage facilities shall meet, at a minimum, the standards set forth in the Flammable and Combustible Liquid's Code as recommended by the American Insurance Association.

H. The site shall be secured by either a chain link fence with barbed wire or a wall with barbed wire. The minimum height shall be eight (8) feet.

I. The system of drainage and dykes shall prevent the discharge of any stored products into streams on the property or on adjacent property. The impoundment basin shall be of sufficient volume to retain the volume of the largest storage vessel on the site. The dikes must be designed in such a manner as not to impede normal maintenance in and around the vessels or response during an emergency.

J. If an emergency at the proposed facility can be aided with the use of water, then a fire hydrant served by a minimum six (6) inch water line shall be located within two hundred-fifty (250) feet of the main entrance to the proposed facility.

K. Facilities must meet all Environmental Protection Agency (EPA) requirements.

12.52 Primary Residence with Accessory Dwelling

A. The accessory apartment unit shall be located on the same lot as the primary residence.

B. No more than one (1) accessory apartment shall be permitted on the same lot with a primary residence.

C. No accessory apartment shall be permitted on the same lot with a duplex or other two-family or multi-family dwelling unit.

D. Detached accessory apartments shall be located behind, and at least twenty (20) feet from, the primary residence.

E. The lot containing both the primary residence and an accessory apartment shall meet the minimum lot size requirement for the district in which it is to be located.

F. A detached accessory apartment shall not be a manufactured or mobile home, travel trailer, camper, or recreational vehicle.

G. A detached accessory apartment may be a dwelling unit that is part of a detached garage or a freestanding dwelling unit meeting the requirements of the North Carolina State Building Code, including any amendments thereto.

H. A detached accessory dwelling shall contain no more heated square footage than seventy-five percent (75%) of the gross floor area of the principal dwelling to which it is incidental and shall be no more than a total of two thousand (2000) heated square feet, whichever is less. The total gross floor area of the detached structure containing the accessory dwelling, including unheated and non-living areas, shall be less than the gross floor area of the principal dwelling.

I. Attached accessory apartments shall not be altered in such a way so as to appear from a public or private road to be multi-family housing. Prohibited alterations include, but are not limited to, multiple entranceways or multiple mailboxes. Access to the accessory apartment shall be by a means of an existing side or rear door, except where a new entrance is required by the North Carolina State Building Code, including any amendments thereto. No new doorways or stairways to upper floors are permitted if they are attached to the side of a building facing a street.

J. An attached accessory apartment shall not occupy more than twenty-five percent (25%) of the gross floor area of the primary residence. The sum of all accessory uses (including home based businesses) in a principal building shall not exceed twenty-five percent (25%) of the total floor area.

K. Impervious surface requirements as required by Section 13.4 (Impervious Surface Limits), rather than residential density limits, shall be applied to single-family lots proposing the addition of an accessory apartment.

L. The requirements of Section 10.3.1 (Accessory Building Setback Requirements in Residential Districts) shall be met.

12.53 Public Utility Stations and Substations, Water or Sewage Treatment Plants, Switching Stations, Telephone Exchanges, Elevated Storage Tanks

A. A statement giving a description of the type or types of facility planned, including the number of proposed employees shall be submitted with the application.

B. A statement from the proposed owners or operators stating the need for the use, and the purpose through which they arrived at the proposed location and alternative locations that were considered, shall be submitted with the application.

C. In the case of water treatment and sewage treatment plants, the applicant shall provide certification from the appropriate State agency that the proposed design meets the minimum State standards and evidence that the proposed operators shall be certified by the State.

D. In the case of public facilities, certification by the appropriate agency that it is a public utility, and a statement that the proposed installation is necessary to accomplish its public utility function, and that the public convenience and necessity shall be served by the proposed installation, shall be submitted with the application.

E. The proposed site shall meet the needs of the applicant and minimize potential adverse impacts on adjacent properties.

F. All outside storage areas and treatment facilities shall be fenced with a minimum eight (8) foot high cyclone fence topped with barbed wire.

G. Architectural elevations of all buildings shall be submitted that show that the buildings preserve the residential character of the neighborhood.

H. All structures except public water storage facilities shall be at least one hundred (100) feet from all property lines. Public water storage facilities shall observe a setback equal to their height with a minimum setback as required in the district where the facility is located.

12.54 Recreational Facility (Non-Profit and Profit)

A. A description of the exact type of facility planned, the amount of area, including the number of members or participants expected, shall be submitted with the application.

B. A signed statement shall be submitted from the owners or operators that there shall be no activity allowed that will have adverse effects on adjacent property. The statement shall also include a complete list of all recreational activities that will take place on the site. This statement shall be submitted with the application.

C. Building plans for all existing and proposed structures shall be submitted, including elevations, and descriptions of the color and nature of all exterior materials.

D. The lot size shall be adequate for the method of sewage disposal proposed, and for the proposed recreational use.

E. Any structures located on the site shall be of such a nature as to preserve the residential character of the area, when located in a residential zoning district.

F. A copy of the organization's by-laws and/or articles of incorporation shall be submitted with the application.

G. A detailed description of the organization, its staff, membership, affiliations, and activities shall be submitted with the application.

H. The development of the site as proposed shall have no adverse impacts on adjacent roads or residential property.

12.55 Restaurants (No Outside Service/Consumption, Drive-In Service, Drive-In Windows, Carry Out, or Food Delivery)

A. A maximum of five thousand (5,000) square feet of gross floor area shall be permitted per establishment.

B. No outside storage of material shall be permitted.

C. The property owner on which the restaurant is located shall be responsible for keeping the site clear of trash.

D. The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one (1) curb cut on the higher classified street. Additional curb cuts shall be on streets of lower classification. Driveway Permits shall be approved by NCDOT for access to State roads.

E. Adequate provision shall be made for ventilation and the dispersion and removal of fumes.

F. All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty (20) feet from any adjacent property lines.

G. A lighting plan shall be submitted that includes fixture details, light intensity contours and overlap, and a statement regarding light trespass on adjacent properties. No direct sources of light shall be detectable from exterior property lines or a public right-of-way.

12.56 Restaurants, Outside Service/Consumption, Drive-In (Service to and Consumption in Vehicle On-Premises), or Carry Out Service (Food Picked Up Inside for Off-Premises Consumption)

A. A maximum of two thousand (2,000) square feet of gross floor area shall be permitted per establishment.

B. When restaurants designed for outside service/consumption and drive-in (service to and consumption in vehicle on premises) are proposed to be located adjacent to residentially zoned or used property, no areas for outside consumption and/or parking spaces shall be located within one hundred (100) feet of the property line of the residentially zoned or used property.

C. The property owner on which the restaurant is located shall be responsible for keeping the site clear of trash.

D. The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one (1) curb cut on the higher classified street. Additional curb cuts shall

be on streets of lower classification. Driveway Permits shall be approved by NCDOT for access to State roads.

E. Adequate provision shall be made for ventilation and the dispersion and removal of fumes.

F. All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty (20) feet from any adjacent property lines.

G. A lighting plan shall be submitted that includes fixture details, light intensity contours and overlap, and a statement regarding light trespass on adjacent properties. No direct sources of light shall be detectable from exterior property lines or a public right-of-way.

H. No outside storage of material shall be permitted.

12.57 Restaurants with Drive-In Windows (Service Directly to Vehicles Primarily for Off-Premises Consumption)

A. A maximum of two thousand (2,000) square feet of gross floor area shall be permitted per establishment.

B. Any entrance/exit doors for pedestrian customer use, if provided, shall be located in such a manner that a person entering/exiting such business is not required immediately to cross a drive-through entrance and/or exit lane.

C. Drive-through areas shall be located in such a fashion that vehicles using or waiting to use such drive-through areas do not interfere with vehicles seeking to enter or leave parking areas.

D. Where it is necessary for patrons wishing to park and enter such businesses to cross a drive-through area, crosswalks leading from parking areas to building entrances shall be clearly marked.

E. The vehicular entrances or exits of such uses shall not be located within three hundred (300) feet of the intersection of the centerlines of intersecting streets.

F. A building housing a restaurant with a drive-in window shall not be located closer than one thousand (1,000) feet to the nearest point of another building housing the same type of store.

G. A minimum of six (6) stacking spaces shall be provided for the facility.

H. All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty (20) feet from any adjacent property lines.

I. A lighting plan shall be submitted that includes fixture details, light intensity contours and overlap, and a statement regarding light trespass on adjacent properties. No direct sources of light shall be detectable from exterior property lines or a public right-of-way.

J. When restaurants designed with drive-in windows are proposed to be located adjacent to residentially zoned or used property, no speaker boxes shall be located within one hundred (100) feet of the property line of the residentially zoned or used property.

12.58 Retail Sales with Subordinate Manufacturing and Processing

A. No such use may emit from a vent, stack, chimney, or combustion process any smoke that is visible to the naked eye.

B. No such use may generate noise that tends to have an annoying or disruptive effect upon uses located outside the immediate space occupied by the proposed use.

C. No such use may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at the outside boundary of the immediate space occupied by the enterprise generating the vibration.

D. The use shall not generate any odor that reaches the odor threshold measured at the outside boundary of the immediate space occupied by the enterprise generating the odor, or the lot line if the enterprise generating the odor is the only enterprise located on the lot.

E. The Permit shall not be issued until the North Carolina Department of Environment and Natural Resources, Division of Air Quality, has certified to the permit-issuing authority that the appropriate State permits have been received by the applicant, or that the applicant will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

F. The use shall not discharge any radiological, chemical, or biological waste into surface or subsurface waters.

I. The use shall not discharge any waste into the County sewer system, or a septic tank that cannot be adequately treated by biological means.

H. The use shall not create electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

12.59 Riding Stables/Academies

A. Plans for all barns, exercise yards, riding arenas, related improvements, and signage shall be submitted with the application.

B. The site shall be of adequate size to protect adjacent properties from adverse effects of the riding stable/academy.

C. No part of any manure storage area, building, structure, runway or riding arena in which animals are housed or exercised shall be closer than one hundred-fifty (150) feet from a property line.

D. All unpaved areas shall be maintained in a manner that prevents dust from adversely affecting adjoining properties.

E. Adequate restroom facilities approved by the Moore County Health Department shall be provided.

12.60 Scrap Materials Salvage Yards, Junkyards, and Automobile Graveyards

A. The following information shall be submitted as part of the application:

1. Detailed plans and specifications for the site screening proposed, as well as management of drainage;

2. Description of the type and number of motorized machines to be employed on site;

3. The site plan shall indicate the extent of the area to be used for storage of junked or wrecked motor vehicles.

B. The following standards shall be met:

1. The site shall be of adequate size to protect adjacent properties from adverse effects of the proposed use;

2. The site shall be screened from adjacent property by a minimum of a six (6) foot high solid fence, uninterrupted except for required vehicle access points;

3. No materials shall be stored closer than fifty (50) feet from a public right-of-way or thirty (30) feet from a property line;

4. Operations shall not be any closer than three hundred (300) feet to any property line of a dwelling, school, hospital, child day care facility, or other residential facility;

5. Disposal or storage of toxic or hazardous matter shall be prohibited;

6. Disposal of trash and garbage shall be in an approved container and be regularly maintained. Open dumping of trash or garbage shall be prohibited;

7. Emissions of smoke and burning of non-vegetative matter shall not be permitted;

8. Equivalent sound levels at the boundaries of the site shall not exceed the following standards:

Time of Day	Decibels (dBA)
Between 7:00 AM & 7:00 PM	68
Between 7:00 PM & 7:00 AM	58

9. Vibration levels at the boundaries of the site shall not exceed the following standards:

Maximum Peak Particle Velocity	
Steady State	1.0 Inches per Second
Impact	2.0 Inches per Second

Note: The maximum particle velocity shall be the product of two (2) times the frequency in cycles per second times the sum of three (3) mutually perpendicular displacement components recorded simultaneously. For purposes of this Ordinance, steady state vibrations are vibrations that are continuous, or vibrations in discrete impulses more frequent than sixty (60) per minute. Discrete impulses that do not exceed sixty (60) per minute shall be considered impact vibrations. Maximum air blast vibration, measured at the lot lines of the lot containing the use, shall be one hundred twenty-five (125) decibels on the linear scale.

10. Roads shall be surfaced with dust free material such as soil cement, bituminous concrete or Portland Cement concrete from the nearest public road to the yard area. All roads located within three hundred (300) feet of residentially zoned land shall be treated the same;

11. Interior roads, other than those stated above, shall be treated with dust inhibitors that will reduce, to a minimum, the generation of dust from the road surfaces as a result of wind or vehicular action. Properly operated water wagons shall be an acceptable method of dust inhibition;

12. Storage of fuels shall be contained in above ground tanks meeting the requirements of the State of North Carolina. No such fuel storage shall be within one thousand (1,000) feet of any residential, educational, or institutional structure. Location of fuel storage tanks shall be so designed as to prevent leakage or spillage into any stream. Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal;

13. The use shall be adequately drained to assure that no standing water shall exist that might provide breeding habitation for insects;

14. Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than six (6) inches;

15. Storage materials shall be stored in piles not exceeding ten (10) feet in height and shall be arranged so as to permit easy access to all such salvage for firefighting purposes;

16. The operator or owner of the facility shall obtain all applicable State and Federal Permits.

12.61 Seasonal Christmas Tree or Pumpkin Sales

A. Notwithstanding any other provision of this Ordinance, but subject to the remaining provisions of this Section, seasonal Christmas tree or pumpkin sales shall be permissible with a Zoning Compliance Permit not only in those districts specified in the Table of Permitted Uses but also on lots within other zoning districts where a commercial, nonconforming use, exists on the date the permit to use the property for this purpose was applied for.

B. A Zoning Compliance Permit authorizing seasonal Christmas tree or pumpkin sales shall enable the permit recipient to conduct Christmas tree sales annually during the period of December 1st through December 31st, and pumpkin sales annually during the period of October 1st through October 31st. The permit need not be renewed annually.

C. A permit for seasonal Christmas tree or pumpkin sales may be issued only if the Administrative Officer finds that sufficient on-street or off-street parking is available to patrons of the Christmas tree or pumpkin sales operation so that the operation does not interfere with the safe and convenient flow of vehicular and pedestrian

traffic and that the proposed use complies with other applicable provisions of this Ordinance.

12.2 Self-Storage/Mini-Warehouses

A. Commercial Uses Permitted on Site
The only commercial uses permitted on site shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate or process goods; service or repair vehicles, small engines or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on the site. The storage of hazardous, toxic or explosive substances shall be prohibited.

B. Security or Caretaker Quarters
No more than one (1) security or caretaker quarters may be developed on the site.

C. Not Legal Address
Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

D. Enclosed buildings
Except as provided in this subsection, all property stored on the site shall be entirely within enclosed buildings.

E. Open Storage of Recreational Vehicles and Dry Storage of Boats
Open storage of recreational vehicles, travel trailers, and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:

1. Designated Area
The storage shall occur only within a designated area located to the rear of the principal structure, which shall be clearly delineated;

2. Storage Area Size
The storage area shall not exceed twenty-five percent (25%) of the buildable area of the site;

3. No Storage Within Setbacks
Storage shall not occur within the area set aside for minimum building setbacks;

4. No Dry Stacking of Boats
No dry stacking of boats shall be permitted on site; and

5. No Vehicle Maintenance, Washing or Repair
No vehicle maintenance, washing, or repair shall be permitted.

F. Lot Area
The minimum lot area shall be three (3) acres.

G. Minimum Separation Between Buildings
If separate buildings are constructed, there shall be a minimum separation of ten (10) feet between buildings.

H. Height
With the exception of structure used as a security or caretaker quarters, the maximum height of a self-service storage facility shall be twenty (20) feet. In addition, a parapet wall shall be constructed to screen roof-mounted heating and air condition and other equipment, if any. The combined height of the building and the parapet wall shall not exceed twenty-five (25) feet.

I. On-Site Circulation

1. Interior Parking
Interior parking shall be provided in the form of aisleways adjacent to the storage bays. These aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisleways shall be twenty-one (21) feet if only one-way traffic is permitted, and thirty (30) feet if two-way traffic is permitted;

2. Mark Traffic Flow Patterns
The one- (1) or two- (2) way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows; and

3. Circulation of Vehicles and Emergency Equipment
Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

J. Lighting
Shielded outdoor lighting shall be the minimum necessary to discourage vandalism and theft.

K. Screening and Fencing
Screening shall be in accordance with Art. 11.3 Screening and/or Buffering and Fencing shall be in accordance with Art. 9.5 Fences and Walls.

L. Security
No dogs allowed for security purposes.

M. Hours of Operation
Hours of public access to self-storage use shall be restricted to between 6:00 a.m. and 10:00 p.m.

N. Architectural Uniformity
The exterior facades of all structures shall receive uniform architectural treatment and colors selected shall be compatible with the character of the neighborhood.

12.63 Sexually Oriented Businesses

A. No sexually oriented business shall locate within one thousand (1,000) feet of any other sexually oriented business, church, public or private school, day care center or nursery school, public park, or residentially used or zoned property.

B. Except for adult motels, no sexually oriented business shall have sleeping quarters.

C. There shall not be more than one (1) sexually oriented business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any sexually oriented business.

D. Except for a business identification sign permitted in accordance with Article 14 (Signs), no other exterior advertising, promotional materials, or signage that is visible to the public from a road, sidewalk, or walkway shall be permitted.

12.64 Shooting Range, Indoor

A. The range shall be located at least two hundred (200) feet from the property line of any existing dwelling or property holding a valid building permit for a dwelling, school, day care, or place of worship.

B. The application shall include information that demonstrates what measures will be implemented so that the use will not pose a hazard off site, including guarantees that the walls will be lined with a sound absorbing material certified by an acoustical professional.

12.65 Social and Fraternal Clubs and Lodges, Union Halls, and Similar Uses

A. All activities and facilities, other than parking, shall be located at least twenty (20) feet from any property line.

B. Parking shall be provided at a ratio of at least one space per five (5) members or families.

C. Any swimming pool areas shall be enclosed by a fence at least five (5) feet high.

D. Lighting shall be located and shielded so as not to adversely impact adjacent property.

12.66 Solar Farms

A solar farm shall comply with the following standards:

A. Situated on at least 1 acre;

B. Signage shall be limited to ownership and contact information, and any other information required by government regulation. Commercial advertising is prohibited;

C. Be enclosed with a fence of at least 6 feet in height;

D. Not create glare or shadows on adjacent lands.

E. No equipment shall be visible from the public right-of-way.

F. All equipment shall be located at least 50 feet from any lot line abutting a residential district or existing home.

G. Screen equipment adjacent to a residential use with an opaque fence, wall, or substantial existing or newly planted landscaping.

12.67 Special Events

A. In deciding whether a permit for a special event should be denied, or deciding what additional conditions to impose, the Town shall ensure that:

1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;

2. The amount of noise generated shall not disrupt the activities of adjacent land uses;

3. The applicants shall guarantee that all litter generated by the special event be removed at no expense to the Town;

4. The Town shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to,

or interference with, the normal flow of traffic, or with the rights of adjacent and surrounding property owners to have access to their property.

B. In cases where it is deemed necessary, the Town may require the applicant to post a bond to ensure compliance with the conditions of the permit.

C. If the permit applicant requests the Town to provide extraordinary services or equipment, or if the Town otherwise determines that extraordinary equipment or services should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

12.68 Telecommunications Towers

A. In addition to other applicable provisions of the Town Code, telecommunications towers and antennas attached thereto that exceed fifty (50) feet in height shall not be located within fifteen hundred (1,500) feet of another telecommunications tower (measured in a straight line).

B. The base of the telecommunications tower shall be set back from a street right-of-way line a distance that is not less than the height of the telecommunications tower, and from every lot boundary line, a distance that is not less than fifty percent (50%) of the height of the telecommunications tower. The setbacks provided for herein may be reduced up to fifty percent (50%) if the applicant provides the Town with an independent study submitted by a registered, licensed engineer who certifies that the applicant's proposed setbacks contain the potential collapse zone. In all cases, the minimum distance between the base of a telecommunications tower and any residential structure shall be equal to the height of the telecommunications tower. The minimum distance between the base of a telecommunications tower and any other structure (except structures accessory to the telecommunications tower) shall be equal to fifty percent (50%) of the height of the telecommunications tower, except as reduced pursuant to an engineer's certification as set forth above.

C. Lighting shall not exceed the Federal Aviation Administration (FAA) minimum if lighting is required by the FAA. To the extent allowed by the FAA, strobes shall not be used for nighttime lighting. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements. Prior to the issuance of a permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.

D. Telecommunications towers and antennas shall be constructed and operated so as not to disturb or interfere with the use or operation, on adjoining or nearby properties, of radios, televisions, telephones, or similar equipment.

E. Commercial messages shall not be displayed on any telecommunications tower.

F. The output from the telecommunications tower shall not exceed federally approved levels for exposure to electronic magnetic force (EMF). The applicant shall be required to submit documentation with the application verifying compliance with this standard.

G. If the telecommunications tower is up to one hundred-eighty (180) feet in height, the telecommunications tower shall be engineered and constructed to accommodate at least two (2) additional telecommunication users. If the telecommunications tower exceeds one hundred-eighty (180) feet in height, the telecommunications tower shall be engineered and constructed to accommodate at least four (4) additional telecommunication users.

H. The base of the telecommunications tower and each guy anchor shall be surrounded by a fence or wall at least eight (8) feet in height and constructed of material that cannot be easily climbed or penetrated, unless the telecommunications tower and all guy wires are mounted entirely on a building at least eight (8) feet in height.

I. If visible from any street or residential area, the area of the telecommunications tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a landscaped evergreen buffer not less than six (6) feet in height at the time of planting. The buffer shall be maintained to replace any vegetation that dies or becomes diseased. The site developer shall have the option of providing the screening around the telecommunications tower base and associated items individually, or providing the screening around the perimeter of the entire site.

J. Outdoor storage shall not be permitted on telecommunications tower sites.

K. The color of the telecommunications tower shall be of a light tone, except to the extent required by law, so as to minimize its visual impact.

L. In addition to other information that must be submitted with the application, the application for a telecommunications tower must contain the following information:

1. Documentation provided by a registered, licensed engineer that the tower has sufficient structural integrity to accommodate the number of required users; and

1. In the case of a proposed new wireless facility, an evaluation of the reasonable feasibility of collocating new antennas and equipment on an

existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant may include maps, letters from adjacent telecommunications tower owners, calculations or other relevant information. As provided in G.S.160D-932, a "wireless support structure" is a new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

M. The telecommunications tower shall be constructed with a grounding system that provides adequate protection from destruction or damage by lightening.

N. The proposed addition of another user's antenna to a pre-existing tower, or any change in the previously approved telecommunications tower, shall constitute a minor modification that must be approved by the Administrative Officer.

O. In addition to the considerations for Special Use Permits found in Section 3.3.12 (Additional Requirements on Special Use Permits) of this Ordinance, the approving bodies**,** in determining whether a telecommunications tower is in harmony with the area in which the telecommunications tower is to be located, and that the value of adjoining or abutting properties will be maintained or enhanced, may consider the aesthetic effects of the telecommunications tower as well as mitigating factors concerning aesthetics, and may disapprove a telecommunications tower on the grounds that such aesthetic effects are unacceptable. Factors relevant to aesthetic effects are the protection of the view in sensitive or particularly scenic areas, and areas specifically designated in adopted plans such as unique natural features, scenic roadways and historic sites; the concentration of telecommunication towers in the proposed areas; and whether the height, design, placement or other characteristics of the proposed telecommunications tower could be modified to have a less intrusive impact.

P. All applicants must comply with the National Environmental Policy Act (NEPA) of 1969. All applicants shall show evidence that the FCC has reviewed and approved the application for NEPA compliance before commencing construction of the telecommunications tower, or the applicant must otherwise provide written documentation from an attorney licensed to practice in North Carolina or engineer licensed in North Carolina certifying that FCC approval is not required.

12.69 Temporary Emergency, Construction, or Repair Residences

Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within thirty (30) calendar days after the date of issuance. The Administrative Officer may renew the Permit for additional thirty (30) calendar day periods if he/she determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

12.70 Temporary Structures and Parking Facilities

A. Temporary structures and parking facilities are intended to be allowed for a period not to exceed two (2) years from the date the permit for the structure or facility is issued, or thirty (30) days after the primary construction related to such temporary structure or parking facilities receives a Certificate of Occupancy, whichever occurs first. Extensions of the use of temporary structures and parking facilities may be expanded for a reasonable period beyond the two (2) year deadline by the permit issuing authority, by amending the original permit. In deciding whether to allow the extension, the permit issuing authority shall weigh the benefits of the extension to the applicant against any detrimental effects of the extension on neighboring property owners, residents, or the general public.

B. Paved parking shall not be required, but temporary parking facilities shall meet the standards set forth in Section 15.6 (Vehicle Accommodation Area Surfaces) for improved parking areas.

C. No clearing of any trees in excess of two (2) inches in diameter shall be allowed in order to construct temporary parking facilities.

D. Within ten (10) months following the expiration of the temporary parking facilities use, the area so used shall, if not paved or graveled prior to being so used, be restored by the permit recipient to its original condition by removing such gravel or paving. This requirement may be waived by the permit issuing authority if it concludes that the cost of such removal clearly outweighs the benefits of such restoration.

12.71 Transmission Lines

A. The site plan shall show all existing and proposed structures within the transmission line right-of-way, as well as all existing structures within fifty (50) feet of the edge of the right-of-way.

B. A State approved soil erosion and sedimentation control plan shall be submitted with the application.

C. A typical cross section for the installation showing elevations of all types of structures involved shall be submitted with the application.

D. Plans and elevation of all proposed buildings and a description of the color and nature of all exterior materials shall be submitted with the application.

E. A written description of the type or types of facility planned including the methods of right-of-way maintenance employed by the applicant shall be submitted with the application.

F. A statement from the proposed owners or operators stating the process through which they arrived at the proposed location and alternative locations that were considered shall be submitted with the application.

G. In the case of a public utility, certification by the applicant that it is a public utility, and a statement that the proposed installation is necessary to accomplish its public utility function, and that the public convenience and necessity shall be served by the proposed installation shall be submitted with the application. In the case of an application by a privately owned company, a statement that the proposed installation is necessary to accomplish the public good, and that the public convenience and necessity shall be served by the proposed installation, shall be submitted with the application.

H. An emergency response plan to handle accidents, spills or leaks shall be submitted with the application. The plan shall show that adjacent properties and the environment will be protected from natural or accidental disasters.

I. The width of the right-of-way shall provide protection for existing structures on adjacent property from tower collapse or transmission line failure.

J. The methods of right-of-way maintenance shall protect adjacent property owners and properties from herbicide damage.

12.72 Veterinarians Offices

All portions of a veterinarian's office or clinic where animals are kept shall be constructed in such a manner that the noise associated with such a facility remains inside the facility. In making this determination, the permit issuing authority shall be guided by recommendations promulgated by the American Animal Hospital Association Hospital Standards regarding the soundproofing of such facilities.

12.73 Warehousing or Distribution Center with Freight Movement

A. Prohibited Storage. Outdoor storage and storage of hazardous, toxic, or explosive substances shall be prohibited.

B. Outdoor storage shall be prohibited unless it is opaquely screened.

12.74 Wholesale Sales

A. No outdoor storage of wholesaling items is permitted in the HC district. Outside storage must be screened in the IL zoning district.

12.75 Wholesale Trade

1. Toxic Chemicals or Substances, Pesticides, or Fertilizers. Toxic chemicals, pesticides, and fertilizers establishments shall comply with the following standards:

(a) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.

(b) Structures, buildings, and mechanical equipment used for the operation shall be at least 100 feet from a residential district.

(c) Security fencing, a minimum of 6 feet in height, shall be provided around all outdoor storage areas.

2. Wholesale (Major and Minor). Vehicular access for wholesale establishments shall be constructed with an all-weather surface and be maintained in a dust-free condition.

Article 13, WATER SUPPLY WATERSHED OVERLAY REGULATIONS

13.1 Water Supply Watersheds

Pursuant to the requirements of NCGS 143-214.5 (Water Supply Watershed Protection), Watershed Protection Overlay Districts as described in Section 7.4 (Watershed Protection Overlay Districts Established) of this Ordinance, have been established for lands within the watersheds of existing or potential drinking water rivers and reservoirs. These Districts overlay other zoning districts established in this Ordinance and delineated on the Official Zoning Map. Wherever the standards of the underlying zoning district differ from the watershed overlay standards, the more restrictive provisions shall apply.

13.2 Land Use Restrictions

All uses and activities allowed in the underlying zoning districts are permitted with the following exceptions:

Table 13-1: Additional Land Use Restrictions in Watershed Protection Overlay Districts

District	Land Use Restrictions
Protected Areas	No discharging landfills are permitted. No storage of toxic and hazardous materials is permitted unless a spill containment plan is implemented.
Critical Areas	No new sludge applications are permitted. No new landfills are permitted. No storage of toxic and hazardous materials is permitted unless a spill containment plan is implemented. No land application of residual (sludge) or petroleum contaminated soils is permitted. New industrial development is required to incorporate adequately designed, constructed, and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises. Animal operations greater than one hundred (100) animal units shall employ Best Management Practices (BMP's) by July 1,1994, as recommended by the Soil and Water Commission.

13.3 Residential Density

Maximum residential density shall be indicated in Table 13-2 (Residential Density Requirements in Watershed Protection Overlay Districts), or as required by the underlying zoning district, whichever is less.

Table 13-2: Residential Density Requirements in Watershed Protection Overlay Districts

District	Maximum Density
Protected Areas	1 DU/20,000 square feet (.46 acre)
Critical Areas	1 DU/40,000 square feet (.92 acre)

DU = Dwelling Unit

13.4 Impervious Surface Limits

A. Impervious surface limits, as applied in this Ordinance, are only effective for uses other than single-family (e.g., manufactured home parks, apartments) and non-residential development. Impervious surface calculations for an individual development shall be calculated on a project- by-project basis. One half (1/2) of the width of any existing or proposed road adjacent to an individual lot shall be included as impervious surface for that lot, except in the case where an existing road was contained within a publicly dedicated right-of-way at the time the watershed regulations were first applied to the watershed within which the development is located.

B. Impervious surface requirements are as follows:

Table 13-3: Impervious Surface Limits in Watershed Protection Overlay Districts

District	Impervious Surface Requirements (Other Residential & Non-Residential)
Protected Areas	24%
Critical Areas	12%

C. Existing development is not subject to the requirements of the watershed overlay. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

13.5 Modifications of the Impervious Surface Ratio

Modifications of the impervious surface ratios may be requested through one (1) of the following provisions:

13.5.1 Variance Procedure

Variance procedures of the Zoning Board of Adjustment, as described in Sections 4.2 (Variances) and 13.9 (Variances from Watershed Provisions).

13.5.2 Special Intensity Allocations

Multi-family residential and non-residential uses may occupy ten percent (10%) of each protected watershed district (exclusive of critical areas) with a seventy percent (70%) impervious surface limit when approved as a Special Intensity Allocation (SIA). Special Intensity Allocations shall not be granted for single-family residential development. In mixed-use developments that include single-family residential uses in combination with multi-family residential and/or non-residential uses, a Special Intensity Allocation may be granted only for the portion of the development containing multi-family residential and/or non-residential uses. No Special Intensity Allocation shall apply to the single-family residential portion of the development. The Town Board of Commissioners is authorized to approve SIA's consistent with the Special Use Permit approval provisions of this Ordinance. Projects must minimize impervious surface area, direct storm water away from surface waters, and incorporate Best Management Practices (BMP's) to minimize water quality impacts. SIA's shall be approved on a "first come, first served", project-by-project basis. BMP measures to minimize water quality impacts (i.e., use of BMP's) shall be shown on submitted site plans for SIA's and shall be accompanied by a certification by a professional, registered engineer or landscape architect, licensed to practice in the State of North Carolina that such BMP's meet State requirements for the control of storm water runoff as they relate to protected watershed areas.

The 10/70 provision does not apply in the Critical Area of water supply watersheds. The built-upon surface area of the parcel(s) that fall within the Balance of Watershed or Protected Area cannot exceed 70%.

13.6 Stream Buffers

A. A minimum thirty (30) foot vegetative buffer is required for development activities along waters indicated on the most recent versions of United States Geological Survey (USGS) 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

B. Agricultural activities shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of United States Geological Survey (USGS) 1:24,000 (7.5 minute) scale topographic maps, or as determined by local government studies.

C. No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists and public projects such as road crossings and greenways where no practical alternative exists. These activities shall minimize impervious surface area, direct runoff away from surface waters, and maximize the utilization of storm water Best Management Practices (BMP's).

13.7 Cluster/Conservation Developments

Clustering of development is allowed under the following conditions:

A. Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in Section 13.3 (Residential Density). This density calculation is determined after 15% is reduced from the total acreage to account for roads and rights of ways. Impervious surface area or storm water control requirements of the project shall not exceed that allowed for the balance of the watershed.

B. All impervious surface areas shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

C. The purpose of the clustering of lots in exchange for open space is for more effective conservation of the natural environment and preservation of the community's character. As such, the open space shall include usable space for residents to enjoy and the inclusion of an element of at least one of the following: trails, park, playground, gathering area, community garden, or another neighborhood amenity. A minimum of 10% of the total site acreage shall be dedicated to active usable open space. Required active usable open space acreage shall not include areas utilized for Stormwater Control Measures (SCM) or Best Management Practices (BMP). A minimum of 10% of the total site acreage shall be dedicated to natural and undisturbed open space not to be developed at any future date. Where a site contains little to no existing naturally wooded or vegetated areas, the total open space requirement shall remain at 20% of the total site acreage, 50% of which shall be dedicated to open space in the form of unstructured passive recreation areas, including dog parks and greens with seating, and trails and walkways, all of which shall include substantially landscaped areas designed to provide shade and an attractive appearance for the enjoyment of residents. Where a trail or walkway is utilized as passive, unstructured open space, a trail shall not satisfy the requirement of the active usable open space element. Required passive usable open space acreage may include areas utilized for Stormwater Control Measures (SCM) or Best Management Practices (BMP) as an attractive water feature. Such features should be fenced appropriately for safety and landscaped attractively. Fencing shall be decorative in nature and constructed of durable, finished materials appropriate for public or residential-facing areas, as determined by the Administrative Officer. Chain-link, barbed wire, welded wire, and other utilitarian or agricultural fencing materials shall be prohibited.

Cluster/conservation developments shall preserve existing trees, vegetation, and natural features. Site clearing shall be limited to the minimum necessary for approved structures, infrastructure, and required site improvements. Key natural and historic features of the property should be considered as prime area for open space. These features shall be shown on a survey or site analysis for review during the preliminary plat or concept planning phase. Where the development has a property owners association, the title of the open space area shall be conveyed to the association for management and maintenance. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds, and individual property owners shall be responsible for maintenance.

D. The final plat shall identify the remainder of the tract to remain in a vegetated or natural state as “reserved for watershed protection.” The title to the open space area shall be conveyed to an incorporated homeowners’ association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

E. Setbacks in cluster subdivisions may be reduced from the requirements of the Table 10-3: Minimum Building Setback Requirements by 3’ on the front, sides, corner, and rear sides in order to accommodate for the smaller lot sizes as long as adequate fire flow is met and is approved by the Moore County Fire Marshall.

13.8 Density Averaging

When all of the following conditions are met, two noncontiguous lots, neither of which is publicly held land may be treated in tandem for compliance with the density requirements of this Section. Publicly held lands include but are not limited to dedicated drainage and open space, parklands, or other lands obtained for watershed protection.

A. Parcel pairs submitted for approval under this provision shall be reviewed and approved as a single, unified development proposal, shall be located no more than one-half (½) mile apart, and shall both be within the Town of Vass's zoning jurisdiction.

B. Overall density of the paired parcel averaged-density development, calculated either by dwelling units per acre or built-upon area (for non-residential and multifamily residential), shall not exceed the density that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area (or Balance of Watershed). However, if one of the parcels is located in the Critical Area and one is located in the Protected Area (or Balance of Watershed), the Critical Area parcel shall not be developed beyond those densities allowed in the critical area provisions of the rules. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.

C. The paired parcels in a paired parcel averaged-density development may include or be developed for single-family or multi-family residential development or non-residential development.

D. Buffers shall at least meet the appropriate minimum statewide water supply watershed protection requirements on both parcels in the parcel pair according to the density of development occurring on each parcel.

E. Built-upon areas on the parcels shall be designed to: 1) Minimize stormwater runoff impact to the receiving waters by minimizing concentrated stormwater flow; 2) Maximize the use

of sheet flow through vegetated areas; 3) Minimize impervious surface areas; and 4) Locate development away from surface waters and drainageways to the maximum extent practicable.

F. The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in a vegetated or natural state and be placed in a permanent conservation easement granted under G.S. 121-35 to the [county][town] or a land conservation organization. The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.

G. A Special Use permit shall be obtained from the Watershed Review Board (Town Board) to ensure that both parcels considered together meet the standards of the ordinance and that potential buyers have notice of how the watershed regulations were applied to the parcel pair. Only the owner(s) of both of the paired parcels may submit the application for the Special Use permit. A site plan for both of the parcels must be submitted and approved as part of the Special Use permit. If such a permit is granted, no change in the development proposal authorized for either parcel shall be made unless the permit is amended. Upon issuance of such permit, one copy will be forwarded to NCDENR. Included with the Special Use permit will be a site plan, registered plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.

H. The conservation easement shall be recorded in the deed for the parcel to which it applies. The Special Use permit shall be recorded in the deed for each of the parcels in the parcel pair. Both the easement and the permit shall be noted on the subdivision plat or site plan that applies to each of the parcels.

I. Paired parcel averaged-density developments that meet the low-density option development requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

J. No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.

K. The development proposal for the parcel pair shall be consistent with the orderly and planned distribution of development throughout the watershed.

L. The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest and achievement of the objectives of this Article.

13.9 Public Health Regulations

A. No activity, situation, structure or land use shall be allowed with the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate onsite sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within the buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.

B. Abatement. The Administrative Officer shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

C. The Administrative Officer shall report all findings to the Planning Board. The Administrative Officer may consult with any public agency or official and request recommendations.

D. Where the Planning Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

13.10 Powers and Duties of the Watershed Review Board.

(A) Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

(B) Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the [county][town] shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

(1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

(a) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.

(b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to

the Watershed Review Board in considering the application.

(c) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

(2) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

(a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

(1) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting an variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(2) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

(3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(5) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

(b) The variance is in harmony with the general purpose and intent of the

Ordinance and preserves its spirit.

(c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(3) In granting the variance, the 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 purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(5) A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

(6) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

(a) The variance application;
(b) The hearing notices;
(c) The evidence presented;
(d) Motions, offers of proof, objections to evidence, and rulings on them;
(e) Proposed findings and exceptions;
(f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed,

the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

13.11 Remedies

(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Town Board of Commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalty per the code enforcement section of this Ordinance, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.

(B) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

Article 14, SIGNS

14.1 Permit Required for Signs

A. Except as otherwise provided in Sections 14.2 (Signs Excluded from Regulation) and 14.3 (Certain Temporary Signs: Permit Exceptions and Additional Regulations), no sign may be constructed, erected, moved, enlarged, illuminated or altered except in accordance with the provisions of this Article. Mere repainting or changing the message of a sign shall not, in and of itself, be considered an alteration.

B. No sign, except those exempt under the provisions referenced in Subsection A, shall be constructed, erected, moved, enlarged, illuminated, or altered without first obtaining a Sign Permit from the Administrative Officer and/or the Board of Commissioners.

C. Sign Permit applications and Sign Permits shall be governed by the same provisions of this Ordinance applicable to Zoning Compliance Permits.

D. In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), Sign Permits shall be issued in the name of the lot owner or his/her agent, rather than in the name of the individual business enterprise requesting a particular sign. The Town may assist the owner by suggesting a formula whereby the maximum square footage of sign area allowed on the lot may be allocated equitably among all tenants, but the Town shall be responsible for enforcing only the provisions of this Ordinance, and not the provisions of any allocation formula, lease, or other private restriction.

14.2 Signs Excluded from Regulation

The following signs are exempt from regulation under this Ordinance:

1. Signs not exceeding four (4) square feet in area that are customarily associated with residential use, such as:

    a. signs giving property identification names, numbers, or names of occupants,

    b. signs on mailboxes or newspaper tubes, and

    c. signs posted on private property relating to private parking or warning the public against trespassing or danger from animals;

2. Signs erected by, or on behalf of, or pursuant to, the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs;

3. Official signs of a non-commercial nature erected by public utilities;

4. Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion; provided that such flags, pennants, or insignia may be displayed within a public right-of-way only when authorized by a resolution adopted by the Board of Commissioners.

5. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights;

6. Signs directing and guiding traffic on private property that do not exceed four (4) square feet in area, and that bear no advertising matter;

7. Bulletin boards, identification signs, and directional signs that do not exceed one per abutting street and 16 square feet in area and that are not internally illuminated.

8. Signs painted on, or otherwise permanently attached to, currently licensed motor vehicles that are not primarily used as signs;

14.3 Certain Temporary Signs: Permit Exemptions and Additional Regulations

A. The following temporary signs are permitted without a Zoning Compliance, Special Use, or Sign Permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this Ordinance, except those contained in Sections 14.6 (Total Sign Surface Area), and 14.8 (Number of Freestanding Signs).

1. Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. On residential lots less than 5 acres in size, such signs may not exceed four (4) square feet in area and shall be removed immediately after sale, lease, or rental. Signs advertising commercial property for sale, lease, or rent, together with information identifying the owner or agent, shall not exceed thirty-two (32) square feet in area, and shall be removed no later than ten (10) days after the sale or lease of the building or land has been closed. For lots of less than five (5) acres, a single sign on each street frontage may be erected. For parcels of land of five (5) acres or more in area, signs shall not exceed sixteen (16) square feet in area. If the parcel of land is a corner lot, one sign will be allowed on each street frontage. For parcels of land in excess of one thousand (1000) feet in street frontage, one sign may be placed every one thousand feet such that no two signs will be closer than one thousand feet;

2. Construction site identification signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including, but not limited to, sale or leasing information. Not more than one (1) such sign may be erected per site, and it may not exceed thirty-two

(32) square feet in area. Such signs shall not be erected prior to the issuance of a Sign Permit and shall be removed within ten (10) days after the issuance of the Certificate of Occupancy for the principal use;

3. Signs attached temporarily to the interior of a building, window, or glass door, individually or collectively, may not cover more than sixty-five percent (65%) of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within thirty (30) days after placement;

4. Displays, including lighting, erected in connection with the observance of holidays shall be removed within ten (10) days following the holidays;

5. Signs erected in connection with elections or political campaigns shall not be erected more than thirty (30) days before the election and shall be removed within three (3) days following the election or conclusion of the campaign. No such sign may exceed six (6) square feet in surface area and shall be limited to one (1) sign per candidate per lot;

6. Signs indicating that a special event such as a grand opening, fair, carnival, circus, festival, or similar event is to take place on the lot where the sign is located may be erected no sooner than two (2) weeks before the event and must be removed no later than three (3) days after the event. A permit is required if the signs are to be up longer than two (2) weeks.

7. Temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:

   a. Not more than one (1) such sign may be located on any lot,

   b. No such sign may exceed four (4) square feet in surface area, and

   c. Such sign may not be displayed for longer than three (3) consecutive days nor more than ten (10) days out of any three hundred sixty-five (365) day period.

B. Freestanding A-Frame Signs - Freestanding A-Frame Signs (sometimes called sidewalk signs or sandwich signs) are permitted in all non-residential districts, subject to the following rules:

1. Only on A-frame sign per business.
2. Maximum 8 sq. ft. per sign face.
3. Signs shall not impede normal pedestrian or vehicular traffic or accessibility or be located within a required sight triangle.
4. Signs shall not be located within any public or private right-of-way.
5. Signs must be removed daily.

C. Other temporary signs not listed in Subsection A shall be regarded and treated in all respects as permanent signs, except that temporary signs shall not be included in calculating the total amount of permitted sign area.

14.4 Determining the Number of Signs

A. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

B. A two (2) sided or multi-sided sign shall be regarded as one (1) sign so long as:

1. With respect to a V-type sign, the two (2) sides are at no point separated by a distance that exceeds five (5) feet, and

2. With respect to double-faced (back-to-back) signs, the distance between the backs of each face of the sign does not exceed three (3) feet.

14.5 Computation of Sign Area

A. The surface area of a sign shall be computed by including the entire area within:

a. a single, continuous, rectilinear perimeter of not more than eight (8) straight lines, or

b. a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

B. If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

C. With respect to two (2) sided, multi-sided, or three (3) dimensional signs, the sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one (1) time by a person from one (1) vantage point. Without otherwise limiting the generality of the foregoing:

1. The sign surface area of a double faced, back to back sign shall be calculated by using the area of only one (1) side of such sign, so long as the distance between the backs of such signs does not exceed three (3) feet;

2. The sign surface area of a double faced sign constructed in the form of a “V” shall be calculated by using the area of only one (1) side of such sign (the larger side if there is a size difference), so long as the angle of the “V” does not exceed thirty (30) degrees and at no point does the distance between the backs of such sides exceed five (5) feet.

14.6 Total Sign Surface Area Per Lot

A. Unless otherwise provided in this Article, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in Table 14-1 (Total Sign Surface Area Allowed per Lot), and all signs except temporary signs shall be included in this calculation.

Table 14-1: Total Sign Surface Area Allowed Per Lot

Zoning Categories			
Residential	**Mixed Use**	**Heavy Commercial**	**Industrial**
8 Sq. Ft.	**No more than twice the frontage of one street or 150 Sq. Ft.**	**No more than twice the frontage of one street or 300 Sq. Ft.**	**No more than twice the frontage of one street or 500 Sq. Ft.**

B. If a lot has frontage on more than one (1) street, then the total sign surface area permitted on that lot shall be the sum of the sign surface area allotments related to each street on which the lot has frontage. However, the total sign surface area that is oriented toward a particular street may not exceed the portion of the lot’s total sign surface area allocation that is derived from frontage on that street.

C. Whenever a lot is situated such that it has no street frontage on any lot boundary and an applicant desires to install on such a lot a sign that is oriented toward a street, then the total sign surface area permitted on that lot shall be the sign surface area that would be allowed if the lot boundary closest to the street toward which such sign is to be oriented fronted on such street. The applicant shall be restricted to using only one (1) street and the closest lot boundary to this street for determining the total permitted sign surface area. However, the applicant shall be given the opportunity to determine the one (1) street used in the calculations.

D. Establishments with a building frontage of fifty (50) feet or less shall have no wall sign greater than thirty-five (35) square feet.

E. Establishments with a building frontage greater than fifty (50) feet shall have a maximum wall sign area of one square foot of sign area for each foot of building frontage or one hundred (100) square feet of sign area, whichever is less.

14.7 Freestanding Sign Surface Area

A. For purposes of this Section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area as provided in Section 14.5 (Computation

of Sign Area). For example, wall signs typically have one (1) side. Freestanding signs typically have two (2) sides (back to back), although four (4) sided and other multi-sided signs are also common.

B. Table 14-2 (Maximum Permitted Freestanding Sign Surface Area) outlines the maximum amount of freestanding sign area allowed.

Table 14-2: Maximum Permitted Freestanding Sign Surface Area

Zoning Districts	≤ 200 Feet of Street Frontage	> 200 but ≤ 400 Feet of Street Frontage	> 400 Feet of Street Frontage
Residential	4 Sq. Ft.	4 Sq. Ft.	4 Sq. Ft.
Mixed Use	50 Sq. Ft.	75 Sq. Ft.	100 Sq. Ft.
Heavy Commercial	50 Sq. Ft.	75 Sq. Ft.	100 Sq. Ft.
Industrial	50 Sq. Ft.	75 Sq. Ft.	100 Sq. Ft.

C. With respect to freestanding signs that have no discernable sides, such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum total surface area allowed under Subsections B, or C for a single side of a freestanding sign.

14.8 Number of Freestanding Signs

A. Except as authorized by this Section, no development may have more than one (1) freestanding sign.

B. If a development is located on a corner lot that has at least one hundred (100) feet of frontage on each of the two (2) intersecting public streets, then the development may have not more than one (1) freestanding sign on each side of the development bordered by such streets.

14.9 Subdivision and Multi-Family Development Entrance Signs

At any entrance to a residential subdivision or multi-family development, there may be not more than two (2) signs identifying such subdivision or development. A single side of any such sign may not exceed sixteen (16) square feet in surface area, nor may the total surface area of all such signs located at a single entrance exceed thirty-two (32) square feet in surface area.

14.10 Location and Height Requirements

A. Freestanding signs shall be located a minimum of thirty-five (35) feet from the street centerline and twelve (12) feet from any side or rear boundary lines.

B. No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this Section, roof surfaces constructed at an angle of seventy-five (75) degrees

or more from horizontal shall be regarded as wall space. This Subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays, on the roofs of residential structures.

C. No sign attached to a building may project more than twelve (12) inches from the building wall.

D. No sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the Town or the State Department of Transportation.

E. No part of a freestanding sign may exceed a height, measured from ground level, of twenty-five (25) feet in the HC and I Districts, and fifteen (15) feet in the MU District, and six (6) feet in all residential districts.

14.11 Sign Illumination and Signs Containing Lights

E. Unless otherwise prohibited by this Ordinance, signs may be illuminated if such illumination is in accordance with this Section.

F. No sign within one hundred-fifty (150) feet of a residential zone may be illuminated between the hours of 12 AM and 6 AM, unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.

G. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.

H. Except as herein provided, and for signs relating to places of worship, internally illuminated signs are not permissible in the residential zoning districts.

I. Subject to Subsection G, illuminated tubings or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.

J. Subject to Subsection G, no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.

K. Subsections E, and F do not apply to temporary signs erected in connection with the observance of holidays.

14.12 Off-Premise Signs

A. An off-premise sign may be reviewed by the Board of Commissioners. These off-premise signs do not include billboards. The Board will consider the sign based on the following content-neutral criteria:

1. Letter of approval from the property owner in which the sign will be located.
2. Location. The location of the sign cannot impede the view of other businesses, signs, or site triangles. The signs may be co-located on the same sign as other messages.
3. Zoning districts. These signs may only be considered on property zoned Heavy Commercial (HC) or Mixed Use (MU)
4. Size. Off-premise signs may not exceed 32 sq ft and must be at least 12' from the edge of pavement. If located on a freestanding pole, the sign cannot exceed 25' in height.
5. Only one off-premise sign is allowed per use.
6. Only one off-premise sign is allowed per property.
7. The Board may consider the location and visibility of the entity applying for the off-premise sign to determine if an off-premise sign is warranted.

14.13 Miscellaneous Restrictions and Prohibitions

A. As provided in the Table of Permitted Uses, no billboards, except those exempted from regulation or permit requirements under Sections 14.2 (Signs Excluded from Regulation) or 14.3 (Certain Temporary Signs: Permit Exemptions and Additional Regulations) may be located in any district.

B. No sign may be located so that it interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

C. Signs that revolve or are animated, or that utilize movement or apparent movement to attract the attention of the public, are prohibited. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement

1. Is not a primary design feature of the sign, and

2. Is not intended to attract attention to the sign.

The restriction of this Subsection shall not apply to signs specified in Section 14.2 (Signs Excluded from Regulation), (4) or to signs indicating the time, date, or weather conditions.

D. No sign may be erected so that by its location, color, size, shape, nature, or message, it would tend to obstruct the view of, or be confused with, official traffic signs or other signs erected by governmental agencies.

E. Freestanding signs shall be securely fastened to the ground or to some other supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property. All

freestanding signs shall be constructed to meet the requirements of the North Carolina State Building Code and other applicable codes and regulations.

F. Monument style shopping center entrance signs for shopping centers containing up to five (5) stores shall be allowed one hundred (100) square feet of sign area. If the shopping center contains more than five (5) stores, the monument sign can be up to two hundred (200) square feet in area.

14.14 Construction and Maintenance of Signs

A. Materials. All signs, excluding awning and window signs, shall be constructed only from wood, metal, stone or other material which has the general appearance of structures composed primarily of wood, metal or stone with painted, engraved or raised messages. Sign materials shall compliment the original construction materials and architectural style of the building façade on which they are to be displayed. If plywood is used, medium density overlay shall be used as a minimum grade. Bare plywood is prohibited.

Colors. In selecting the principal colors for a sign, colors that complement the color of the building shall be used.

B. All signs and all components thereof, including without limitation, supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.

C. If a sign, other than a billboard, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within sixty (60) days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

D. If the message portion of a sign is removed, leaving only the supporting “shell” of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located, or other person having control over such sign shall, within sixty (60) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This Subsection shall not be construed to alter the effect of Section 6.9 (Nonconforming Signs), Subsection C, that prohibits the replacement of a nonconforming sign, nor shall this Section be construed to prevent the changing of the message of the sign.

E. Planted Area. The base of every permanent freestanding sign erected after adoption of this ordinance shall stand in a bed of plants. The size of the planted landscape area shall be determined by multiplying the height of the sign (measured from the ground to the upper most part of the sign) by the width of the sign (widest dimension), divided by two, but in no case shall

the planted area be less than 50 square feet, unless restricted by the amount or size of land upon which the sign is situated that is owned or controlled by the applicant. The planted landscape area shall contain 50% evergreen shrubs and 50% perennials with approximate ground cover.

14.15 Unlawful Cutting of Trees or Shrubs

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

1. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the Town or State Department of Transportation;

2. On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located;

3. In any area where such trees or shrubs are required to remain under a permit issued under this Ordinance.

14.16 Relocation of Signs

Signs for which a Sign Permit has been issued may be relocated in conformance with the regulations of this Article upon notification to the Administrative Officer. Signs that are nonconforming may not be relocated except upon removal of all nonconforming features of the sign.

Article 15, PARKING AND LOADING

15.1 Parking Space Dimensions

A. Subject to Subsections B, and C, each parking space shall contain a rectangular area at least twenty (20) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this Section.

B. In parking areas containing ten (10) or more parking spaces, up to twenty percent (20%) of the parking spaces need contain a rectangular area of seven and one-half (7½) feet in width by fifteen (15) feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

C. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking shall be no less than twenty-two (22) feet by nine (9) feet.

15.2 Required Widths of Parking Area Aisles and Driveways

A. Parking area aisle widths shall conform to the Table 15-1 (Required Parking Aisle Widths) that varies the width requirements according to the angle of parking.

Table 15-1: Required Parking Aisle Widths

	Parking Angle				
Aisle Width	**0 Degrees**	**30 Degrees**	**45 Degrees**	**60 Degrees**	**90 Degrees**
One-Way Traffic	**13 Feet**	**11 Feet**	**13 Feet**	**18 Feet**	**24 Feet**
Two-Way Traffic	**19 Feet**	**20 Feet**	**21 Feet**	**23 Feet**	**24 Feet**

B. Driveways shall not be less than ten (10) feet in width for one-way traffic and eighteen (18) feet in width for two-way traffic, except that ten (10) foot wide driveways are permissible for two-way traffic when

1. The driveway is no longer than fifty (50) feet,

2. It provides access to not more than six (6) spaces, and

3. Sufficient turning space is provided so that vehicles need not back into a public street.

15.3 General Design Requirements

A. Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one (1) or two (2) dwelling units, although backing onto arterial streets is discouraged.

B. Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

C. Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

D. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

E. No vehicle parking or building construction or similar development use shall be allowed within the required front (or if on a corner, also the side street) building setback of any lot or parcel.

15.4 Vehicle Accommodation Area Surfaces

A. Vehicle accommodation areas that

1. include lanes for drive-in windows, or

2. contain parking areas that are required to have more than ten (10) parking spaces that are used regularly at least five (5) days per week shall be graded and surfaced with asphalt or concrete that will provide equivalent protection against potholes, erosion, and dust. Specifications for surfaces meeting the standards set forth in this Subsection are as follows:

a. Paved Surfaces.

Vehicle accommodation areas paved with asphalt shall be constructed in the same manner as typical street surfaces. If concrete is used as the paving material, vehicle accommodation areas shall be similarly constructed except that four (4) inches of concrete shall be used instead of two (2) inches of asphalt.

b. Unpaved Surfaces.

Vehicle accommodation areas without paving shall be constructed in the same manner as paved areas except that size thirteen (13) crushed stone may be used in lieu of asphalt or concrete.

B. Vehicle accommodation areas that are not provided with the type of surface specified in Subsection A shall be graded and surfaced with crushed stone. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in Subsection A for a distance of fifteen (15) feet back from the edge of the paved street. This Subsection shall not apply to single-family or two-family residences or other uses that are required to have only one (1) or two (2) parking spaces.

C. Parking spaces in areas surfaced in accordance with Subsection A shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection B shall be demarcated whenever practicable.

D. Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

15.5 Satellite Parking

A. All satellite parking spaces (except spaces intended for employee use) must be located within four hundred (400) feet of a public entrance of a principal building housing the use associated with such parking, or within

B. Four hundred (400) feet of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance.

C. The developer wishing to take advantage of the provisions of this Section must present satisfactory written evidence that he/she has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgement that the continuing validity of his/her permit depends upon his/her continuing ability to provide the requisite number of parking spaces.

D. Persons who obtain satellite parking spaces in accordance with this Section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this Article.

15.6 Special Provisions for Lots With Existing Buildings

Notwithstanding any other provisions of this Ordinance, whenever

1. There exists a lot with one (1) or more structures on it constructed before the effective date of this Ordinance, and

2. A change in use that does not involve any enlargement of a structure is proposed for such lot, and

3. The parking requirements of Section 15.1 (Number of Parking Spaces Required) that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of Section 15.1 (Number of Parking Spaces Required) to the extent that

    a. Parking space is practicably available on the lot where the development is located, and

    b. Satellite parking space is reasonably available as provided in Section 15.7 (Joint Use of Required Parking Spaces).

However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

15.7 Loading and Unloading Areas

A. Subject to Subsection E, whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.

B. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. Table 15-3 (Required Loading and Unloading Space Requirements) indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this Section. However, the permit issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Table 15-2: Required Loading and Unloading Space Requirements

Gross Area of Building (in Square Feet)	Number of Spaces*
1,000 – 19,999	1
20,000 – 79,999	2
80,000 – 127,999	3
128,000 – 191,999	4
192,000 – 255,999	5
256,000 – 319,999	6
320,000 – 391,999	7
Plus one (1) space for each additional 72,000 square feet or fraction thereof.	

*Minimum dimensions of 12 feet X 55 feet and overhead clearance of 14 feet from street grade required.

C. Loading and unloading areas shall be so located and designed so that the vehicles intended to use them can

1. Maneuver safely and conveniently to and from a public right-of-way, and

2. Complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

D. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities, whenever:

1. There exists a lot with one (1) or more structures on it constructed before the effective date of this Ordinance, and

2. A change in use that does not involve any enlargement of a structure is proposed for such lot, and

3. The loading area requirements of this Section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this Section to the extent reasonably possible.

Article 16, SUBDIVISION REGULATIONS

16.1 Subdivision Regulations

The purpose of this article is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the Town of Vass. It is further designed to provide for the orderly growth and development of the Town; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promotes public health, safety, and the general welfare. This ordinance is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

This ordinance is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter 160D-801, Subdivision Regulations, for the Town of Vass, and its extraterritorial jurisdiction.

16.2 Prerequisite to Plat Recordation

After the effective date of this ordinance, each individual subdivision plat of land within the Town's jurisdiction shall be approved by either the Subdivision Administrator (in the case of a minor subdivision), or the Town Board on the recommendation of the Planning Board (in the case of a major subdivision).

16.3 Acceptance of Streets

The Town of Vass maintains a public street system which includes streets and sidewalks that are publicly maintained and open for use by the public. The public street system also includes curbing and storm drainage systems that are connected or related to the streets.

Ownership and maintenance of public streets is costly and it is in the town’s public interest to ensure that streets accepted into the town’s public street system are well constructed so that the useful life of each street is maximized.

In its sole discretion, the Vass Board of Commissioners has the authority and right to determine the location and extent of its public street system and which streets and related infrastructure are to be publicly maintained by the town. Nothing contained in this article should be construed as a limitation on the absolute discretion of Board of Commissioners with regard to the town’s street system.

Regarding the town's public street system, the Board of Commissioners may consider, the following factors: general operational needs of the town, general fiscal needs and financial standing of the town, land use plans, economic development, traffic patterns, traffic or transportation plans, interconnectivity to other public streets, location of street, length and width of street and right-of-way area, topography and slope, number and types of uses along the street, affordable housing considerations, standards of construction of street and related infrastructure, anticipated cost of maintenance and repairs to the street, cost of maintenance of the public street system as a whole, and/or any other factor found by Board to be reasonable.

16.3.1 All Streets are Private Unless Accepted into a Public Street System

All streets are private unless accepted into a public street system. The notation of a "public street" on a recorded plat serves only as an offer of dedication for that street for public use. A developer/owner cannot obligate the town to take over a street. The approval of a plat shall not be deemed to constitute or affect the acceptance of the town or by the public of the dedication of any street or related infrastructure shown on the plat. Streets remain private until the town (or other public road system such as North Carolina Department of Transportation) formally accepts the street into its public street system.

16.4 Thoroughfare Plans

When a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the Town, such part of such thoroughfare shall be platted by the property owner in the location shown on the plan and at the width specified in this ordinance.

16.5 School Sites on Land Use Plan

If the Vass Town Board and the appropriate Board of Education have jointly determined the specific location and size of any school sites to be reserved and that information appears in the comprehensive land use plan, the Subdivision Administrator shall notify the appropriate Board of Education whenever a sketch plan of a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Planning Board. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the property owner may treat the land as freed of the reservation.

16.6 General Procedure for Plat Approval

After the effective date of this ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by either the Subdivision Administrator or the Town Board as set forth in this Article of this ordinance, and until this approval is entered in writing on the face of the plat by the Subdivision Administrator.

16.7 Effect of Plat Approval on Dedications

Pursuant to G.S. 160D-806, the approval of a plat shall not be deemed to constitute or effect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town of Vass may by resolution accept any dedication made to the public of land or facilities for streets, parks, public utility lines, or other public purposes, when the land or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of land or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the municipality shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the municipality shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

16.8 Penalties for Violation

16.8.1 After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Moore County Register of Deeds, violates this article and is subject to the consequences described here. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this. The Town, through its attorney, or other official designated by the Town Board may enjoin illegal subdivision, transfer or sale of land by action for injunction.

16.8.2 The violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of $150.00 to be recovered by the Town. The offender shall be provided written notice of the violation and shall have ten (10) days from the date of the notice to correct the violation. If the violation is not corrected within ten (10) days, the civil penalty shall become due on the eleventh (11^{th}) day following the date of the notice.

16.8.3 Each day's continuing violation of this ordinance shall be a separate and distinct violation.

16.8.4 Notwithstanding Subsection 16.8.2 above, this ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

16.8.5 The Town may cause building permits to be denied for lots that have been illegally subdivided.

16.8.6 Nothing in this section shall be construed to limit the use of remedies available to the Town. The Town may seek to enforce this ordinance by using any one, all, or a combination of remedies.

16.8.7 In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

16.9 Separability

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

16.10 Variances

Applicants may apply for a variance, following the requirements of ordinance section 4.3.

16.11 Judicial Review

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 Town shall have the burden of showing compliance with the procedural requirements of this section.

16.12 Abrogation

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

16.13 Subdivision Administrator

This ordinance shall be administered and enforced by the Subdivision Administrator, who shall be appointed by the Town Board of Commissioners.

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

16.15 Plat Shall Be Required on Any Subdivision of Land

Pursuant to G.S. 160D-801 a final plat shall be prepared, approved, and recorded pursuant to the provisions of this ordinance whenever any subdivision of land takes place.

16.16 Approval Prerequisite to Plat Recordation

16.16.1 Pursuant to G.S. 160A-373, no final plat of a subdivision within the jurisdiction of the Town of Vass shall be recorded by the Register of Deeds of Moore County until it has been approved by either the Subdivision Administrator or the Vass Town Board as provided herein. To secure such approval of a final plat, the property owner shall follow the procedures established in this article.

16.16.2 All plats and proposed subdivisions shall be reviewed by the Subdivision Administrator for initial determination as to whether the proposed subdivision is to be classified as a minor subdivision, a major subdivision, or exempt from the provisions of this ordinance as specified in the definition of subdivision found in Article 18. In making such determinations, the Subdivision Administrator shall review the proposal, considering, among others, the following:

a) The number and pattern of lots to be created;

b) The current and proposed use of the tract to be subdivided;

c) Any site improvements proposed as a part of the subdivision; and

d) The affidavit of the property owner who is requesting classification as to the proposed use of the tract to be subdivided and the nature and reason for the division (i.e., probate, division among heirs, partition among co-tenants, sale, building development, gift, lease, etc.).

16.16.3 Where a public street is to be created and platted as part of the subdivision, the subdivision shall not be exempt from the provisions of this ordinance regardless of any other factors. All transfers or sales, whether exempt or not, of an interest in any property within a tract subdivided pursuant to this ordinance shall be made by express reference (plat book and page number) to the recorded plat thereof.

16.16.4 If the Subdivision Administrator shall determine that the proposed subdivision is exempt from the provisions of this ordinance and does not require approval, the

final plat shall be endorsed to that effect and may then be recorded in the Office of the Register of Deeds.

16.16.5 The property owner may appeal the administrative decision that the request does not classify as an exempt subdivision per Section 4.2 Appeals

16.17 Procedures for Review of Major and Minor Subdivisions

All subdivisions shall be considered major subdivisions except those defined as minor subdivisions. Major subdivisions shall be reviewed in accordance with the procedures in Section 16.19 through 16.22. Minor subdivisions shall be reviewed in accordance with the provisions in Section 16.18.

Major Subdivision. Any subdivision of land not meeting the definition of Minor Subdivision. This includes condominium and townhome developments.

Minor Subdivision. A division of a tract of land where:

a) no more than four lots (including the residual acreage) are created in any three-year period, whether such lots are created at one time or over an extended period of time;
b) all lots are accessed via a public or private street, an existing recorded easement or a newly recorded easement that is a minimum of 24’ in width and will be used to access no more than 4 residences;
c) public water and/or sanitary sewerage systems, other than laterals to serve individual lots, are not to be extended; and
d) the installation of drainage improvements that would require easements through one or more lots to serve other lots are not necessary.

The minor subdivision procedure may not be used a second time within any three-year period on any property previously subdivided using the minor subdivision procedure, or on any property located less than 1,500 feet from the original property boundaries, by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the minor subdivision received final plat approval.

16.18 Procedure for Review of Minor Subdivisions

16.18.1 Sketch Plan for Minor Subdivisions

Prior to submission of a final plat, the property owner may submit the plat to the Subdivision Administrator for review and comments. Once this is complete, the following information should be shown on the plat for minor subdivisions:

a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;

b) The boundaries of the tract and the portion of the tract to be subdivided;

c) The total acreage to be subdivided;

d) The existing and proposed uses of the land within the division and the existing uses of land adjoining it;

e) The existing street layout and right-of-way width, lot layout and size of lots;

f) The name, address and telephone number of the owner(s);

g) The name, if any, of the proposed subdivision;

h) Streets and lots of adjacent developed or platted properties;

i) The zoning classification of the tract and of adjacent properties;

j) A statement from the Moore County Environmental Health Department shall be submitted with the application indicating that a copy of the sketch plan has been submitted to them, if septic tanks or other on-site water or wastewater systems are to be used in the subdivision.

k) A statement from the District Engineer of the N.C. Department of Transportation shall be submitted with the application indicating that a copy of the sketch plan has been submitted to them for review as to proposed lot access points, private road connections, and existing streets, highways, and related drainage systems.

l) All lots are required to be able to meet the Moore County Environmental Health Department requirements, as well as, NC State requirements for septic system installation.

The property owner, where required, shall provide a report from a licensed soil scientist who shall perform a soil assessment prior to approval of the preliminary subdivision plat. The report from the soil scientist shall accompany the submittal of the preliminary plat and shall be in the form of a letter, signed, dated, and certified and shall include the possibilities of lot sizes the site can support. Prior to the approval of the final plat, the property owner shall submit an additional report which shall include a lot-by-lot evaluation, signed and dated from a licensed soil scientist, for septic system capacity. The report must show that each proposed lot has been evaluated under the current provisions of Title 15A NCAC 18A.1900 et seq. In addition, the evaluation should note whether there is adequate space for an on-site subsurface sewage treatment and disposal system, if needed. If the property owner proposes a system that would treat a flow of 3,000 GPD or greater, and therefore would require State approval, a letter from the State would also be required to be submitted for final approval. Lastly, the licensed soil scientist is required to sign and seal the submitted

reports and the final subdivision plat. All submittals shall be made to the Vass Town Planning Administrator, soil scientist reports and evaluations as well as preview reports submitted by the property owner.

m) A copy of a current Moore County Tax Map shall be submitted with the sketch plan showing the location of the parcel to be subdivided and the location of all new lots and any lots previously subdivided from the tract, as well as all properties located adjacent to, and directly across a street, easement, road, or right-of-way from the property to be subdivided. A current property owner listing obtained from the Moore County Land Records Department shall also be submitted with the tax map that indicates the current ownership of the subject property and all properties adjacent to, and within 1,500 feet of, the subject property.

Upon a completed review of the plat by the Subdivision Administrator and any reviewing agencies, the property owner may proceed with the preparation of the final plat in accordance with the requirements of this ordinance.

The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

Two copies of the final plat shall be submitted. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Moore County Register of Deeds.

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

The final plat shall meet the specifications in Section 16.21.4.

The following signed certificates shall appear on all three copies of the final plat

a) Certificate of Ownership and Dedication

The undersigned hereby certifies that the land shown hereon is owned by the undersigned, and hereby freely dedicates all rights-of-way, easements, streets, recreation areas, open spaces, common areas, utilities and other improvements to public or private common use as noted on this plat, and further assumes full responsibility for the maintenance and control of said improvements until they are accepted for maintenance and control by an appropriate public body or by an incorporated neighborhood or homeowners association or similar legal entity.

_____ _____
Owner(s) Date

b) Certificate of Survey and Accuracy

In accordance with the Manual of Practice for Land Surveying in North Carolina:

On the face of each map prepared for recordation there shall appear a certificate executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map that were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the following general form:

State of North Carolina
Moore County

I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page____, Book____, Page_____ etc.) (other); that the ratio of precision as calculated by latitudes and departures is 1:_____ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page__); that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my hand and seal this___day of_____, A.D. 20____.

_____
Professional Land Surveyor

Official Seal

_____
Registration Number

c) Certificate of Land Use Regulation and Status of Plat

The surveyor preparing the final plat shall certify to one of the following on the face of the plat:

I, _____, certify to one of the following:

a. That this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;

b. That this survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;

c. Any one of the following:

    1) That this survey is of an existing parcel or parcels of land and does not create a new street or change an existing street;

    2) That this survey is of an existing building or other structure, or natural feature, such as a watercourse; or

    3) That this survey is a control survey.

d. That this survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision;

e. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in a) through d) above.

_____
Professional Land Surveyor

Seal or Stamp

_____

Registration Number

The Subdivision Administrator shall review the final plat and shall**,** within 45 work days of submittal, either approve the plat, conditionally approve the plat with modifications to bring the plat into compliance with this ordinance and any other applicable ordinances, refer the plat to the major subdivision process, or disapprove the plat.

If the Subdivision Administrator conditionally approves the final plat with modifications to bring the plat into compliance, he shall retain one print of the plat, and return his written decision and one copy of the plat to the property owner.

If the final plat is disapproved, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Subdivision Administrator as

part of the record, and one copy of the reasons and one copy of the plat shall be transmitted to the property owner. The property owner may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Subdivision Administrator, or the property owner may appeal the decision to the Board of Adjustment.

If the Subdivision Administrator refers the final plat to the major subdivision procedure, the applicant shall follow the procedures outlined for major subdivisions or may appeal the decision to the Board of Adjustment.

Failure of the Subdivision Administrator to make a written decision within 45 work days after his first review shall constitute grounds for the property owner to apply to the Town Board of Commissioners for approval.

If the property owner appeals to the Town Board for plat approval, the Town Board shall review and approve or disapprove the final plat within 45 days after the plat and decision of the Subdivision Administrator has been received by the Town Board.

If the Subdivision Administrator or Town Board (in case of an appeal for plat approval) approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the minor subdivision plat shown hereon has been found to comply with the Subdivision Regulations and Watershed Protection Ordinance of the Town of Vass, North Carolina**,** and that this plat has been approved for recording in the Office of the Register of Deeds of Moore County. This approval shall be null and void if this plat is not recorded within 30 days of the date specified below.

_____ _____
Date Subdivision Administrator

NOTICE: This property is located within a Public Water Supply Watershed – development restrictions may apply.

The property owner shall file the approved final plat with the Register of Deeds of Moore County within 30 days of approval; otherwise, such approval shall be null and void.

16.19 Sketch Plan for Major Subdivisions

16.19.1 Number of Copies and Contents

Prior to the preliminary plat submission, the property owner shall submit to the Subdivision Administrator a sketch plan of the proposed subdivision containing the following information:

a) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;

b) The boundaries of the tract and the portion of the tract to be subdivided;

c) The total acreage to be subdivided;

d) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

e) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;

f) The name, address, and telephone number of the owner;

g) The name, if any, of the proposed subdivision;

h) Streets and lots of adjacent developed or platted properties;

i) The zoning classification of the tract and of adjacent properties;

j) A statement from the Moore County Environmental Health Department shall be submitted with the application indicating that a copy of the sketch plan has been submitted to them, if septic tanks or other onsite water or wastewater systems are to be used in the subdivision.

16.19.2 Submission and Review Procedure

The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this ordinance and the zoning ordinance and shall advise the property owner or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

16.20 Preliminary Plat Submission and Review

16.20. 1 Submission Procedure

For every subdivision within the territorial jurisdiction of this ordinance, which does not qualify as a minor subdivision procedure, the property owner shall submit a preliminary plat which shall be reviewed by staff and applicable agencies and then will be forwarded to the Board of Commissioners. If the proposed major subdivision will result in 20 or more lots, the owner must first apply to conditionally rezone the property. Conditional rezoning process shall be prior to the preliminary plat review. If the proposed major subdivision will contain roads proposed to

be accepted into the Town's public street system, a Public Street Commitment request must be submitted in accordance with ZO 16.28.4. (PSC letter language added here for clarity 12/8/2025)

The preliminary plat (along with any additional copies which the Subdivision Administrator determines are needed to be sent to other agencies and the Board) shall be submitted to the Subdivision Administrator at least 15 days prior to the Board of Commissioner meeting at which the property owner desires the Board to review the preliminary plat.

Preliminary plats shall meet the specifications in Section 16.21.4.

Thereafter, the Subdivision Administrator and all applicable agencies shall review and approve the construction drawings before any construction or installation of improvements may begin. Once all approvals from the Board of Commissioner, and various agencies to include Moore County Fire Marshall, Moore County Public Utilities, Town of Vass contract engineer firm, NCDOT, NCDEQ for stormwater, Moore County E-911, and others as applicable are complete, the Subdivision Administrator shall sign off on the construction drawings. The applicant shall be responsible for making a copy of the signed drawings and one set shall be retained by the Town of Vass.

16.20.2 Review by Other Agencies

After having received the preliminary plat from the property owner, the Subdivision Administrator shall submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development including, but not limited to: the District Engineer of the North Carolina Department of Transportation as to proposed streets, highways, drainage systems**,** and subdivision entrance connections to existing State roads; the Moore County Environmental Health Department and/or the Moore County Public Works Department as to proposed water and sewerage systems; a contract Engineering Firm; and any other agency or official designated by the Town. The Subdivision Administrator may send the proposed conditional rezoning of major subdivisions to other agencies to review prior to the public hearing.

16.20.3 Review Procedure

The Board of Commissioners reviews the preliminary plat, in cases where the subdivision will result in 20 or more lots, the plat must closely align with the concept plan and conditions approved in the conditional rezoning. The Board of Commissioners may recommend approval, approval with conditions, or denial of the preliminary plat to the Subdivision Administrator. The Subdivision Administrator makes the final approval or denial of the plat; this decision may be appealed to the Board of Adjustment.

16.20.4 Minor modifications

Minor modifications may be approved by the Subdivision Administrator. Minor changes may include, but not be limited to, small site alterations such as realignment of streets and relocation of utility lines due to engineering necessity, and recombination or reconfiguration of lots so long as the number of lots is not increased over that approved on the preliminary plat. If the Administrator determines that such changes are questionably not minor changes, or if the submitted plat deviates in its overall design from the approved preliminary plat, the applicant is required to apply for a

modification to the conditional zoning and shall follow the process for rezoning, per Article 17. Examples of such changes in overall design triggering review include increase in the number of lots, realignment of roads, increase in road lengths or additions of cul de sacs, reduction in open space or sidewalks, and changes in ingress or egress to the development.

16.20.4 Presale or Pre-lease of Unrecorded Lots Permitted Upon Approval of Preliminary Plat

The property owner, upon approval of the preliminary plat, may enter into contracts to sell or lease the lots shown on the approved preliminary plat, provided that the contract does all of the following:

a) Incorporates as an attachment a copy of the approved preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded final plat prior to closing and conveyance.

b) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved preliminary plat.

c) Provides that if the approved and approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final approved and recorded plat.

d) Provides that if the approved and recorded final plat differs in any material respect from the approved preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final approved and recorded plat, during which 15 day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

16.20.5 Owner or Agent Not Prohibited from Contracting or Leasing by Reference to Approved Preliminary Plat

The provisions of this section shall not prohibit any owner or his/her agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under this ordinance or recorded with the Office of the Moore County Register of Deeds where the buyer or lessee is any person who has contracted

to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the requirements of this ordinance and recorded in the Office of the Moore County Register of Deeds.

16.21 Final Plat Submission and Review

16.21.1 Preparation of Final Plat and Installation of Improvements

Upon approval of the preliminary plat, the property owner may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this ordinance. Prior to approval of a final plat, the property owner shall have installed the improvements specified in this ordinance or guaranteed their installation as provided herein. No final plat will be accepted for review by the Board of Commissioners unless accompanied by written notice by the Subdivision Administrator and Moore County Public Utilities acknowledging compliance with the improvement and guarantee standards of this ordinance. The final plat shall constitute only that portion of the preliminary plat which the property owner proposes to record and develop at that time; such portion shall conform to all requirements of this ordinance. For major subdivisions in which public roads to be dedicated to the Town of Vass, the developer shall leave the final lift of pavement until the lots within the subdivision or the construction of the project is at 80% complete. The cost of this final lift of pavement shall be included in a performance guarantee prior to final plat approval.

In lieu of requiring a performance guarantee for certain improvements, the Board of Commissioners may include a condition that Certificates of Occupancy will not be approved until improvements are completed per lot. These improvements include but are not limited to the installation of sidewalks or walkways and the planting of street trees or other landscaping.

16.21.2 Improvements Guarantees

a) Agreement and Security Required

In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of Vass may enter into an agreement with the property owner whereby the property owner shall agree to complete all required improvements. The property owner shall be allowed to choose which security or combination of securities that he/she wishes to provide from the choices provided below. The Town shall not have the authority to dictate which form of security will be accepted as an improvement guarantee and shall be required to offer a range of options of types of improvements guarantees from which the property owner may choose. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Board of Commissioners, if all other requirements of this ordinance are met. To secure this

agreement, the property owner shall provide, subject to the approval of the Board of Commissioners, either one, or a combination of the following guarantees not exceeding 1.25 times the entire cost of materials, labor, and project management as provided herein:

1. Surety Performance Bond(s)

   The property owner shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bond(s) shall be payable to the Town of Vass and shall be in an amount equal to 1.25 times the entire cost, as estimated by the property owner's engineer and approved by the Board of Commissioners, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Board; the bonds shall be auto renewal or renewed until the installations are in and approved by the Board of Commissioners.

2. Cash or Equivalent Security

   The property owner shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town. The use of any instrument other than cash shall be subject to the approval of the Town Board. The amount of deposit shall be equal to 1.25 times the cost, as estimated by the property owner's engineer and approved by the Town Board, of installing all required improvements.

   If cash or other instrument is deposited in escrow with a financial institution as provided above, then the property owner shall file with the Town Board an agreement between the financial institution and himself guaranteeing the following:

   (i) That said escrow account shall be held in trust until released by the Town Board and may not be used or pledged by the property owner in any other matter during the term of the escrow; and

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

b) Default

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

c) Release of Guarantee Security

The Board of Commissioners may release a portion of any security posted as the improvements are completed and recommended for approval by the Subdivision Administrator or Town Engineer (contract or otherwise). Within 30 days after receiving the approval recommendation from staff, the Board of Commissioners may approve said improvements and immediately release any security posted.

16.21.3 Submission Procedure

The property owner shall submit the final plat, so marked, to the Subdivision Administrator not less than 15 days prior to the Board of Commissioners meeting at which it will be reviewed; further, the final plat for the first stage of the subdivision shall be submitted not more than 12 months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Board of Commissioners on or before the l2 month anniversary of the approval.

The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Manual of Practice for Land Surveying in North Carolina.

Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Moore County Register of Deeds.

The final plat shall be of a size suitable for recording with the Moore County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet.

Submission of the final plat shall be accompanied by filing fees as provided in the Town of Vass Fee Schedule.

The final plat shall meet the specifications in Section 16.21.4 of this ordinance.

The following signed certificates shall appear on all copies of the final plat:

a) Certificate of Ownership and Dedication

The undersigned hereby certifies that the land shown hereon is owned by the undersigned, and hereby freely dedicates all rights-of-way, easements, streets, recreation areas, open spaces, common areas, utilities and other improvements to public or private common use as noted on this plat, and further assumes full responsibility for the maintenance and control of said improvements until they are accepted for maintenance and control by an appropriate public body or by an incorporated neighborhood or homeowners association or similar legal entity.

_____ _____
Owner(s) Date

b) Certificate of Survey and Accuracy
In accordance with the Manual of Practice for Land Surveying in North Carolina:

On the face of each map prepared for recordation there shall appear a certificate executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

The certificate shall take the following general form:

State of North Carolina
Moore County

I, _____certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page ____, Book ____, Page ____, etc.) (other); that the ratio of precision as calculated by latitudes and departure is 1: _____ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book___, Page__); that this map was prepared in accordance with G.S. 47-30, as amended. Witness my hand and seal this __day of _____, A.D. 20___.

_____
Professional Land Surveyor

Official Seal

_____
Registration Number

c) Certificate of Land Use Regulation and Status of Plat

The surveyor preparing the final plat shall certify to one (1) of the following on the face of the plat:

I, _____, certify to one of the following:

a. That this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;

b. That this survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;

c. Any one of the following:

    1) That this survey is of an existing parcel or parcels of land and does not create a new street or change an existing street;

    2) That this survey is of an existing building or other structure, or natural feature, such as a watercourse; or

    3) That this survey is a control survey.

d. That this survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision;

e. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in a) through d) above.

_____
Professional Surveyor

Seal or Stamp

_____

Registration Number

d) Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements.

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

_____ _____
Subdivision Administrator Date

The Board of Commissioners reviews the final plat and may appoint an engineer or surveyor to confirm the accuracy. If substantial errors are found, the costs shall be charged to the property owner and the plat shall not be recommended for approval until such errors have been corrected. If the Board of Commissioners approves the plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon, has been found to comply with the Subdivision Regulations of the Town of Vass, North Carolina, and that this plat has been approved by the Board of Commissioners for recording in the Office of the Register of Deeds of Moore County. This approval shall be null and void if this plat is not recorded within 30 days of the date specified below.

_____ _____
Date Subdivision Administrator

If the final plat is disapproved by the Board of Commissioners, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Town Board as part of its proceedings; one copy of the reasons and one copy of the plat shall be transmitted to the property owner. If the final plat is disapproved, the property owner may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Board of Commissioners.

The property owner shall file the approved final plat with the Register of Deeds of Moore County within 30 days of Town Board approval; otherwise such approval shall be null and void.

16.21.4 Information to be Contained in or Depicted on Preliminary and Final

Plat

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

Information	Preliminary Plat	Final Plat
-Title Block Containing		
-Property designation	x	x
-Name of owner	x	x
-Location (including township, county and state)	x	x
-Date or dates survey was conducted and plat prepared	x	x
-A scale of drawing in feet per inch listed in words or figures	x	x
-A bar graph	x	x
-Name, address, registration number and seal of the professional land surveyor	x	x
-The name of the property owner	x	x
-A sketch vicinity map showing the relationship between the proposed sub-division and surrounding area	x	x
-Corporate limits, township boundaries, and county lines if on the subdivision tract	x	x
-The names, addresses and telephone numbers of all owners, professional land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	x	x
-The registration numbers and seals of professional engineers and land surveyors	x	x

Information	Preliminary Plat	Final Plat
-Date of plat preparation	x	x

-North arrow and orientation	x	x
-The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	x	x
-The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands	x	x
-The names of owners of adjoining properties	x	x
-The names of any adjoining subdivisions of record or proposed and under review	x	x
-Minimum building setback lines	x	x
-The zoning classifications of the tract to be subdivided and adjoining properties	x	x
-Existing property lines on the tract to be subdivided and on adjoining properties	x	x
-Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	x	x
-Proposed lot lines, lot and block numbers, and approximate dimensions	x	
-The lots numbered consecutively throughout the subdivision	x	x

Information	Preliminary Plat	Final Plat
-Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural	x	x

features affecting the site		
-The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHBM or other FEMA maps	x	x
The following data concerning streets:		
-Proposed streets	x	x
-Existing and platted streets on adjoining properties and in the proposed subdivision	x	x
-Rights-of-way, location and dimensions	x	x
-Pavement widths	x	
-Approximate grades	x	
-Design engineering data for all corners and curves	x	
-Typical street cross sections	x	
-Street names	x	x
-Street maintenance agreement in accordance with Section 16.28 of this ordinance	x	x
-Type of street dedication; all streets must be designated either "public" or "private". (Where public streets are involved which will be dedicated to the Town, the property owner must submit all street plans to the Subdivision Administrator with the preliminary plat for approval). Where public streets are involved which will not be dedicated to the Town, the property owner must submit street plans to the N.C. Department of Transportation District Highway Office for review	x	x

Information	Preliminary Plat	Final Plat
-Where streets are dedicated to the public, but not accepted into a municipal or the State system before lots are sold, or a private road is used for		x

access, a statement explaining the status of the street in accordance with Section 16.28.2 of this ordinance		
- If any street is proposed to intersect with a State maintained road, the property owner shall apply for driveway approval as required by the North Carolina Department of Transportation, Division of Highways' Manual on Driveway Regulations. Evidence that the property owner has obtained such approval.	x	x
The location and dimensions of all:		
-Utility and other easements	x	**x**
-Riding trails	x	x
-Natural buffers	x	x
-Pedestrian or bicycle paths	x	x
-Parks and recreation areas with specific type indicated	x	x
-School sites	x	x
-Areas to be dedicated to or reserved for public use	x	x
-Areas to be used for purposes other than residential with the purpose of each stated	x	x

Information	Preliminary Plat	Final Plat
-The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or	x	x

for tenants remaining in property owner's ownership) of recreation and open space lands		
The plans for utility layouts including:		
-sanitary sewers	x	x
-storm sewers	x	x
-other drainage facilities, if any	x	x
-water distribution lines	x	x
-natural gas lines	x	x
-telephone lines	x	x
-electric lines	x	x
-illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves.	x	
-plans for individual water supply and sewage disposal systems, if any	x	x
-profiles based upon Mean Sea level datum for sanitary sewers and storm sewers	x	
Site calculations including:		
-acreage in total tract to be subdivided	x	
-acreage in parks and recreation areas and other nonresidential uses	x	
-total number of parcels created	x	
-acreage in the smallest lot in the subdivision	x	
Information	Preliminary Plat	Final Plat
-linear feet in streets	x	
-The name and location of any property	x	x

or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places		
-Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute.		x
-The accurate locations and descriptions of all monuments, markers and control points.		x
-A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private roads and/or private recreation areas are established.	x	x
-A copy of the erosion control plan submitted to the appropriate authority, if such a plan is required.	x	x
-Topographic map with contour intervals of five feet.	x	
-All certifications required in Section 16.21.		x
-Any other information considered by either the property owner, the Subdivision Administrator, the Planning Board or the Town Board to be pertinent to the review of the plat.	x	x

16.21.5 <u>Public Recreation Area Dedication</u> (Added 04/14/2015)

A. Purpose

The purpose of this section is to ensure that new dwellings include or contribute to the provision of a public recreation area sufficient to the meet the recreation needs of new development as well as surrounding neighborhoods.

B. Applicability
This section shall apply to all subdivision and multifamily unit approvals.

C. Approval of Preliminary Plats
Any subdivision preliminary plats proposing to create lots intended to serve as building sites for residential development shall dedicate a portion of the subdivision site as public recreation area. The amount of land dedicated shall equate to 1/35 of a acre multiplied by the number of dwelling units proposed to be accommodated by the subdivision. Subdivisions proposing duplexes shall provide twice the number of lots. Subdivisions creating multifamily lots shall base the amount of land dedicated by the number of dwelling units. All public recreation area dedicated to the Town shall meet the design standards as found in section 16.21.5.E.

Any subdivision resulting in 20 or less lots shall submit payment to the Town in lieu of public recreation area.

Any subdivision resulting in 20 or more lots may submit payment in lieu of recreation space dedication with approval by the Town. The amount of payment in lieu of land dedication shall be calculated by dividing the pre-development assessed value of the development site by the total number of acres in the development site, multiplying the result by 1/35, and then multiplying that result by the number of proposed subdivision lots. The development application shall include documentation from Moore County describing the property's pre-development assessed value and the total acreage of the development site.

D. The land dedication or payment to the Town shall be completed prior to the approval of a final plat or approval of zoning permit in the case of residential development which does not require plat approval.

E. Approval of Multifamily Dwellings
Any multifamily dwelling development or vertically mixed-use development shall provide a flat fee per unit as set forth in the Town’s fee schedule. In instances where the Board of Commissioners determines that a combination of partial payment of in lieu funds an partial dedication of public recreation area to the Town, the standards found in Section 16.21.5.E shall also apply.

F. Design Standards for Required Public Recreation Area
Areas used as required public recreation area shall meet the following standards:
The area shall be compact and contiguous, forming a single area, unless multiple areas are needed to extend existing park areas, and shall be shaped in a manner that can accommodate active recreational activities. The area shall also be readily accessible and have at least 50’ of street frontage along a public right of way. No portion of the public recreation area shall be within a flood zone or on slopes exceed 5%.

G. Payment in Lieu Review Standards.
The decision on whether to approve a payment in lieu shall be based on the following standards: Whether the on-site provision of recreation area shall establish, expand, or extend existing parks space, if the in-lieu option provides additional design flexibility for high density development, and whether the in-lieu option helps the Town acquire and develop parks, greenways, and other open space areas that would better meet the needs of the developments residents than the on-site provision.

16.22 Recombination

Recombination of land is the combination or recombination of portions of lots when the total number of lots is not increased and the resultant lots are equal to or exceed the dimensional requirements of the zoning district where located. In accordance with NCGS Section 160D-802, this activity is not subject to the subdivision regulations.

16.23 Re-subdivision Procedures

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

REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION, MINIMUM STANDARDS OF DESIGN

16.24 General

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

16.25 Suitability of Land

16.25.1 Generally

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

16.25.2 Lands Used for Disposal of Solid Waste

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

16.25.3 Flood Prone Areas

a) All subdivision proposals shall be consistent with the need to minimize flood damage;

b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

c) Base Flood Elevation (BFE) data shall be provided for subdivision proposals that contain 50 or more lots or that involve a tract of land five acres or more in size.

16.25.4 Wetlands

If a developer, corporation, private homeowner, or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary, or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required by the U.S. Army Corps of Engineers prior to commencement of earth-disturbing activities. Filling activities include, but are not limited to, construction of road crossings, sewer or utility line installations, grading, placement of soil from ditching or other excavations, or placement of fill for commercial or residential development. A wetlands determination and specific permit requirements may be obtained from the Raleigh Field Office of the U.S. Army Corps of Engineers.

16.25.5 Suitability for Septic Disposal

Soils shall be evaluated for suitability or provisional suitability for septic tanks according to guidelines established in the Laws and Rules for Ground Absorption Sewage Disposal Systems, incorporated herein by reference. Each lot that does not contain a suitable building site, or that has not been evaluated for on-site sewage disposal, shall be designated on the plat as being of restricted development potential and by instrument recorded in the Moore County Registry.

16.25.6 Drainage

a) Soil suitability, including slope and drainage, shall be evaluated according to soil characteristics indicated by the Soil Survey for Moore County, North Carolina, and topography indicated by the U.S. Geological Survey Topographic Maps.

b) Each lot shall contain a suitable building area safe from inundation and erosion. Sanitary sewer systems, septic tank drain fields, water systems, wells, and adjacent properties shall also be protected from inundation by surface and flood waters. Roads, driveways, and utilities shall be protected from damage caused by improper stormwater management.

c) Mechanical devices, drainage easements, natural buffers, large lots, and/or other technical means may be used to achieve these objectives. Natural drainageways are a preferred means of stormwater runoff removal. The characteristics (including capacity) of natural drainageways shall be protected.

d) Runoff levels from the 25 year storm after the site is developed shall not be greater than the rate of runoff on the same site in its natural state.

16.26 Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of any existing subdivision within the Town of Vass, Moore County or any other municipality in Moore County.

16.27 Subdivision Design

16.27.1 Blocks

a) The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

b) Blocks shall not be less than 1,600 feet in perimeter or more than 2,500 feet.

c) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

d) Where deemed necessary by the Town Board, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

e) Block numbers shall conform to the Town street numbering system if applicable.

16.27.2 Lots

a) All lots shall conform to the this Zoning Ordinance**,** and any other applicable ordinances.

b) Lots shall meet any applicable Moore County Environmental Health Department requirements.

c) Double frontage lots shall be avoided wherever possible.

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

e) The lot boundaries for lots adjacent to existing and proposed public street rights-of-way shall extend to the edge of the right-of-way. The lot boundaries for lots adjacent to private roads shall extend to the center of the private road right-of-way.

f) Flag lots are lots in which the buildable portion of the lot is connected to its street frontage by an arm of the lot that is less than fifty percent (50%) of the presumptive minimum required lot width as set forth in Section 10.2 (Minimum Lot Widths), or if no minimum lot width is specified therein, is less than the lesser of fifty percent (50%) of the width of the buildable portion of the lot, or fifty (50) feet. New subdivisions should generally avoid the creation of flag lots.

16.27.3 Easements

Easements shall be provided as follows:

a) Utility Easements

Easements for underground or aboveground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 15 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines.

b) Drainage Easements

Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the, purpose of drainage.

16.28 Streets

16.28.1 Generally

a) New streets may be dedicated to the public and constructed to the standards of this Section and the most current N.C. Department of Transportation minimum subdivision roads construction standards, except as provided in Subsection 16.28.7 Private Streets.

b) All streets shown on the final plat shall be designated “public” or “private” in accordance with G.S. 136-102.6, and designation as “public” shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or State system before lots are sold, or designated as “private”, a statement explaining the status of the street shall be included with the final plat. Further, the initial purchaser of a lot(s) served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road.

16.28.2 New Streets

In order for any proposed street to be eligible for acceptance into the town’s public street system, it must first make a declaration of this intention at the outset of the project.

To be eligible for acceptance into the town’ public street system, a street and its related infrastructure must be constructed in accordance with the town’s adopted public street standards, as the same may from time to time be amended.

Site visits and observations by the Town’s contracted engineer and/or public works department review of certain test results are required at the completion of certain critical phases of the street system construction and may include the following:

(a) On-site review of site clearing and grubbing prior to grading;

(b) On-site review of grading and fill operations and review of compaction test results on all fill areas under the roadway;

(c) On-site review of storm drainage system and review of compaction test results of the storm drainage trench;

(d) Review of compaction test results for all utilities installed in the roadway;

(e) On-site review of curb/curb and gutter, sidewalks, and drive entrances;

(f) On-site review of proof-rolling of the sub-grade material;

(g) On-site review of installation of the ABC stone base and review of compaction test results;

(h) On-site review of proof-rolling of the stone base; and

(i) On-site review of asphalt paving and review of compaction test results.

The developer/owner must notify the Town at each of the above phases in order to allow the Town opportunity to review the work. Failure on the part of the developer/owner to notify the Town at each of these critical construction phases may disqualify a street from eligibility for acceptance into the town's public street system or may cause work to have to be uncovered and redone at the expense of the developer/owner.

16.28.3 Developer/Owner Declaration Concerning New Streets

Prior to development approval, developers/owners constructing new streets must declare whether they will be requesting that the new streets be accepted into the town's public street system or are to remain private.

Streets that are declared to be private will not be eligible for inclusion into the public street system.

16.28.4 Public Street Commitment

If a developer/owner wishes to have a street accepted into the town's public street system then the developer/owner must request a public street commitment letter in accordance with this section.

(a) Application for public street commitment – A developer/owner that desires a public street commitment shall submit such request in writing on such forms as provided by the Town.

(b) Engineering review fee – The developer pays for the review and inspection fees incurred for reviewing the roads.

(c) Upon receipt of an application, town staff shall evaluate the request and make recommendations to the Board of Commissioners, including any recommended conditions to be included in the commitment letter.

(d) The Board of Commissioners shall consider and take action to either decline acceptance or to issue a declaration of intent to accept streets upon condition that streets be constructed to Town standards with required periodic Town inspections, and/or other conditions as deemed necessary by the Board.

(e) Upon Board approval, the Town will issue a street commitment letter outlining the conditions imposed and requirements for Town verification of compliance with conditions and requirements, and applicable time limits. The street commitment letter is transferable by the applicant, but is only valid for the original project and for streets and related infrastructure that are the same as or substantially similar to what was originally proposed.

(f) Expiration, termination, and revocation of public street commitment letter –

(1) A public street commitment is valid for two (2) years from its issuance but, upon request, may be extended for an additional one (1) year periods by the administrative officer upon a showing of good reason for the delay.

(2) Once construction of a street has begun the developer/owner must use reasonably diligent efforts to complete the construction of the street in a reasonable time. If more than one (1) year elapses from the commencement of construction without any work being done on the street, then the street shall be deemed abandoned and the commitment letter shall terminate.

(3) If a developer/owner fails to call for on-site observation of critical construction phases by town representatives or conduct the required testing, or if town standards have not been met, then the Administrative Officer shall report such information to the Board of Commissioners and the public street commitment letter is subject to revocation by Board.

(4) The developer/owner will be given an opportunity to be heard by Board concerning termination or revocation of the public street commitment letter.

16.28.5 Report and Recommendation of Contract Engineer

Prior to Board of Commissioner's acceptance of any street and related infrastructure into the public street system, the Town's contracted engineer shall submit a report and recommendation for Board's consideration. The report should address the developer/owner's compliance with any conditions or requirements stated in the public street commitment letter. The report should also include a recommendation as to the amount of a reasonable repair guaranty.

16.28.6 Warranty and Repair Guaranty

As a condition of acceptance into the public street system, all streets and related infrastructure shall be warranted by the person, corporation or company making the improvements for a period of two (2) years from the date of final approval which warranty shall be in writing and include an indemnification clause, agreeing to indemnify and hold the town harmless from any such claims during the two-year warranty period. As a condition of acceptance into the public street system, the developer/owner shall be required to submit a repair guaranty in a reasonable amount set by Board of Commissioners for three (3) years following the warranty period.

16.28.7 Street Right-of-Way Plat

Once the street and related infrastructure, or any required repair work, are completed and approved by the Town's contracted engineer, the developer/owner shall provide to the Town a proposed recordable plat showing the as-built streets and related infrastructure and the right-of-way to be conveyed.

The Town are to review the proposed plat to determine its adequacy and provide recommendations as they deem appropriate to Board of Commissioners.

16.28.8 Formal Acceptance of Street and Related Infrastructure

Once the street and all related infrastructure have been completed, the right-of-way plat has been prepared and approved by the contact engineer, planner, and town attorney, and the engineer's report and recommendation have been completed, the town administrator will put the request for acceptance on the next available Board of Commissioners meeting so that the Board can consider the request for acceptance of the street and related infrastructure into the Town's public street system.

16.28.9 Post Acceptance Recordation

If accepted and approved by the Board, developer/owner must, at its expense, record the approved plat and convey the right-of-way by deed to the Town in a form approved by the town attorney.

16.28.10 Limitation of Town Representative Responsibility

Participation of town representatives in any on-site review or observation is for town purposes only and should not be relied upon by the developer/owner for engineering inspection and certification purposes.

16.28.11 Appeal of Administrative Decisions

Any administrative decision concerning the public street system is appealable per section 4.2 Appeals.

16.28.12 Design Standards

a) All streets and roads, public or private, shall meet the following design standards:

1. Widths

The provision of street rights-of-way shall conform to and meet the requirements of the N.C. Department of Transportation, or as may be recommended by the Town Board, from its date of adoption, including, where appropriate, reservation for or dedication of street rights-of-way for future transportation facilities. A property owner shall not be required to provide or dedicate right-of-way for a proposed street to which access would be prohibited by any governmental agency. Right-of-way widths, measured from lot line to lot line, shall be as wide as existing streets extended, but in no case shall said widths be less than the following:

Street Type	**Minimum Required Right-of-Way Width (in Feet)**
Arterial	**100**
Collector	**70**
Minor	**60**
Marginal Access	**50**
Cul-de-sac	**50**

Additional street right-of-way may be required in cases where underground public utilities, sidewalks, and drainage facilities cannot be located within the minimum stated above.

2. Grades

   Proposed streets shall conform to grade standards adopted by the N.C. Department of Transportation.

3. Intersections

   Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60^{o}.

4. Curves

   Horizontal and vertical curves shall be designed by the property owner according to the standards of the N.C. Department of Transportation and in the interest of public safety and welfare. Factors to be considered, among others, shall be the type and importance of the street, sight distance, anticipated traffic volume, and design speed.

5. Cul de sacs

   All permanent dead-end streets (as opposed to temporary dead-end streets or stub outs) shall be developed as cul de sacs. Except where no other practicable alternative is available, such streets may not extend more than 1,000 feet (measured from the centerline of the intersecting street to the center of the turnaround).

6. Alleys

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

b) Alleys may be provided in residential subdivisions.

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

d) Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end as may be recommended by the Planning Board and approved by the Town Board.

e) Sharp changes in alignment and grade shall be avoided.

16.28.13 Extensions and Connections

a) The proposed street layout shall be coordinated with the existing street system of the surrounding area and with any adopted Town or County thoroughfare plan or comprehensive transportation plan. Proposed streets shall be the extension of existing streets where possible.

b) Cul-de-sacs shall not be used to avoid connection with an existing street or to avoid the extension of an important street.

c) Where a subdivision adjoins a heavily traveled street classified as an arterial or collector, in the interest of highway safety, the property owner shall be required to provide one or more of the following:

1. interior access to lots via a public or private street;

2. common or joint driveways;

3. a marginal access street parallel to the arterial or collector street; or

4. reverse frontage on a smaller street when the only access to the subdivision will be from an arterial or collector street.

Where access is available to any internal subdivision street, whether by reverse frontage or other lot arrangement, private driveways shall not have access to the arterial or collector street. It is the intent of this provision to minimize the number of points of ingress, egress, and regress to main roads within the Town of Vass planning jurisdiction.

d) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be no less than 150 feet.

e) Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet, measured from centerline to centerline, of the intersecting street. When the intersected street is a major thoroughfare street, the distance between intersecting streets shall be at least 1,000 feet.

f) The Planning Board may recommend, and the Town Board may require, the property owner to extend the right-of-way and build the street, and/or provide a temporary cul-de-sac, in order to stub out streets that should be connected to existing or proposed streets outside of the subdivision.

16.28.14 Sidewalks and Walkways

a) Sidewalks shall be provided along one side of all proposed and existing public streets within subdivisions.

b) Sidewalks will be provided along any existing public street directly accessed by the proposed subdivision as follows:

1. The sidewalk will extend the length of the property adjacent to the roadway on the same side as the proposed subdivision.

2. The property owner will provide any necessary additional right-of-way needed for the sidewalk to either the Town or the N.C. Department of Transportation, as appropriate.

3. When an adjacent road is a N.C. Department of Transportation facility, the sidewalk shall be built to N.C. Department of Transportation standards.

c) Walkways will also be provided to connect dead-end streets and cul-de-sacs to each other and to recreation areas and open space to limit the travel distance for pedestrians.

d) Pedestrian walkways shall be owned and maintained by a property owners' association in or adjacent to developments outside of the Town's corporate limits, or in any case where the Town does not accept dedication of these improvements.

e) Sidewalks and walkways shall be constructed to the Americans with Disabilities Act requirements.

f) Sidewalks shall be five feet in width and constructed of five inches of concrete. Extension joints shall be installed every 30 feet, with score marks every 10 feet.

g) The Town Board may permit the installation of walkways instead of sidewalks constructed with other suitable materials when it concludes that:

1. Such walkways would serve the residents of the development as adequately, and be as durable as, concrete walkways; and

2. Such walkways would be more environmentally desirable or more in keeping with the overall design of the development.

16.28.15 Driveways

All driveways on streets designated as arterial or collector streets shall be constructed so that:

a) To the extent practicable, no driveway shall be located within 250 feet of the right-of-way of a public street that intersects with the arterial or collector street upon which the driveway opens.

b) When access is available from streets of different classifications, the driveway shall be located so as to provide access only from the street with the lower classification.

c) To the extent practicable and legally possible, adjoining lots in different ownership shall be required to establish a single driveway located on the property line common to the two lots and labeled on the plat as “joint driveway.”

16.28.16 Street Names and Signs

a) Names of streets which duplicate or can be confused with the names of existing streets within Moore County, shall not be approved. New street names will be reviewed by the Moore County Emergency Management Records to confirm non-duplication.

b) Extensions of existing and named streets shall bear the names of such existing streets.

c) House numbering will be assigned by the Addressing section of the Moore County GIS Department or its successor.

d) Approved street name signs shall be erected by the property owner at the intersections of streets. The Subdivision Administrator shall inspect to verify that street signs have been erected prior to final plat approval.

16.28.17 Private Roads

a) The intent of this Subsection is primarily to allow the creation of lots for single-family residential development. Private roads shall not be permitted where it is found that:

   1. the subdivision roads are constructed to minimum State design and construction standards, and would satisfy other requirements for addition to the State maintenance system; or

   2. the subdivision roads extend existing roads which are public; or

   3. a proposed road is designated as an arterial or collector on an approved Town or County thoroughfare plan or comprehensive transportation plan; or

   4. the subdivision roads are part of a non-residential development consisting of office, retail, industrial, and similar businesses, each located on a separate lot. This provision shall apply only to the portion of a subdivision being developed for non-residential purposes; or

   5. one or more of the lots created are intended for, or currently contain a, two-family or multi-family residential use.

b) Private roads may be allowed to be created to serve proposed lots in a subdivision where:

   1. the private road will serve 15 or fewer lots or dwelling units, including the residual acreage of the parent tract;

   2. all lots created by the subdivision shall front on the private road and direct access to the public road from any lot shall be prohibited;

   3. all lots created (including the residual acreage of the parent tract) are two acres (87,120 square feet) or greater in land area (exclusive of public street and/or private road rights-of-way and other on-site public or quasi-public easements/right-of-way); and

   4. all lots created (including the residual acreage of the parent tract) are at least 150 feet in width as measured along the frontage of the lot abutting the private road right-of-way

c) Private roads shall be required to meet standards set by the Town of Vass as found in Appendix A (Minimum Construction Standards for Private Roads in the Town of Vass). Satisfactory proof that the standards are met will be required by the Subdivision Administrator.

d) The property owner shall have an instrument recorded contemporaneously with the final plat substantially in the form of the Town's standard Road Maintenance Agreement, which shall guarantee:

1. a right of access to any private road in the subdivision by all lots served by the road and by law enforcement and emergency vehicles, and

2. right of access for the proposed private road to a State or municipally maintained road by way of direct access or other private roads,

3. perpetual maintenance of any private road serving the subdivision at the standards set for approval,

4. provide record notice that any further subdivision of any lot shown on the plat as served by a private road may be restricted and/or prohibited by the Town of Vass Subdivision Regulations,

5. provide record notice of the probability that future development dependent on the private roads for access will require upgrading of the roads to a higher private road standard or public dedication and upgrading of the road to N.C. Department of Transportation standards, and that the cost of the upgrade will be the responsibility of the property owner requesting approval of the subdivision at that date,

6. that if the road is dedicated for public use at a later date, then the lot boundaries will be revised to extend only to the edge of the right-of-way,

7. acceptance by the property owner of all liability related to the use of the road, and agreement to hold both the Town, County, and State harmless from such liability, and

8. acknowledgment by the property owner that some public services may not be provided due to the private nature of the road, and

The guarantees of right of access and maintenance of private roads in the subdivision shall run with the land and shall be disclosed to any prospective purchaser of land in the subdivision as provided in G.S. 136-102.6. An instrument guaranteeing these facts shall be presented to the Subdivision Administrator with the application for final plat approval. The instrument shall be reviewed and approved by the Town Attorney prior to approval of the final plat. A verified certificate, signed by the owner of the land subdivided, attesting these facts shall be placed on the final plat submitted for approval. Upon recordation, the Deed Book and Page Number of the recorded document shall be referenced on the final plat.

e) No final plat that shows lots served by private roads may be recorded unless the final plat contains the following certificates:

1. Certificate of Restriction on Further Subdivision of Lots Accessed by Private Roads

   Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Town of Vass Subdivision Regulations.

2. Certificate of Access Restriction

   Access to the lots in this subdivision is restricted to private road(s) as shown on this plat. No driveways or other access points are permitted onto the external or off-site public street(s) unless otherwise indicated as an approved driveway access point shown on this plat.

3. Certificate of Private Road Maintenance and Disclosures

   I, _____, certify that an instrument will be recorded contemporaneously with the recordation of this approved final plat that, among other things, guarantees:

   a. a right of access to any private road in the subdivision by all lots served by the private road; and

   b. maintenance of any private road in the subdivision at the standards set for approval.

   These guarantees of right of access and maintenance of the private road shall run with the land.

   _____
   _____
   Owner(s) Date

4. Certificate of Road Maintenance Agreement and Restrictions

   Restrictions and requirements pertaining to private roads and access for this subdivision are described in greater detail and recorded at Deed Book _____, Page _____, Office of the Register of Deeds, Moore County, North Carolina.

16.28.18 Cluster Mailboxes

1. Appropriate mail receptacles must be provided for the receipt of mail as approved by the Postal Service and other applicable departments.
2. Cluster mailboxes shall be located outside of the right-of-way and in a owners' association-maintained areas.
3. Approval of cluster mailbox installations by the United States Postal Service and Building Inspector is required prior to final plat approval.
4. Applicants for a major subdivision that choose to construct a private mail house structure or building instead of cluster mailboxes shall obtain a commercial building permit. Private mail house structures or buildings shall:

I. Be located outside of the street right-of-way;
ii. Be located on land controlled by a homeowners' association; and
iii. Provide off-street parking at a rate of one space per every 20 mailboxes.

16.29 Utilities

16.29.1 Utilities in Corporate Limits

Each lot in all subdivisions within the corporate limits of the Town of Vass shall be provided, at the property owner's expense, with an extension of the County water system and an individual sanitary system. The size of the water mains shall be not less than six inches inside diameter, and they shall be laid out so as to create a complete circuit, with no dead end lines in excess of 300 feet. A blow off valve shall be placed at the dead end. Water lines shall be installed in the street right-of-way where possible. Individual sanitary systems must be approved in accordance with the following provisions:

a. Any septic tank or other facility serving a single source and having a design capacity of 3,000 gallons per day or less and discharging into other than surface waters shall be approved by the Moore County Environmental Health Department.

b. Any package plant or other sewage treatment facility serving two or more sources not connected to individual or public systems and having a design capacity of greater than 3,000 gallons per day and/or discharging to surface waters shall be approved by the North Carolina Department of Environment and Natural Resources.

16.29.2 Utilities in Extraterritorial Area

Each subdivision in the extraterritorial area of the Town of Vass shall be provided with water lines and laterals within and along the perimeter of the land being subdivided for each lot, if any of the land being subdivided is within 500 feet of the County system. The property owner may at his expense, extend the aforementioned system(s) to the subdivision if approved by the Town Board. If the property owner chooses to extend water mains, the size shall not be less than six inches inside diameter, and they shall be laid out so as to create a complete circuit, with no dead end lines in excess of 300 feet. A blow off valve shall be placed at the dead end. Water

lines shall be installed in the street right-of-way where possible. Individual sanitary systems must be approved in accordance with the following provisions:

a. Any septic tank or other facility serving a single source and having a design capacity of 3,000 gallons per day or less and discharging into other than surface waters shall be approved by the Moore County Environmental Health Department.

b. Any package plant or other sewage treatment facility serving two or more sources not connected to individual or public systems and having a design capacity of greater than 3,000 gallons per day and/or a discharge to surface waters shall be approved by the North Carolina Department of Environment and Natural Resources.

16.29.3 Surface Water Drainage

a. No surface water drainage shall empty into a sanitary sewer.

b. Where, in the opinion of the Town Engineer, a public stormwater sewer is reasonably accessible, before a subdivision is approved and accepted by the Town of Vass, the property owner, shall connect with the public storm sewer system by providing all grading and all structures necessary to carry the water to the storm drainage system. Drainage and construction of drainage structures shall conform to Town Specifications and Standards.

c. Where a storm drainage system is not accessible, before a subdivision is approved and accepted by the Town of Vass, the property owner shall do all grading and provide all drainage structures necessary to properly carry the water to locations which are acceptable to the Town of Vass.

d. Where drainage ditches are provided and grades exceed four percent, the ditches shall be paved in accordance with the Town standards.

16.29.4 Street Lights

All subdivisions in which the size of the smallest lot is less than 40,000 square feet shall have streetlights installed throughout the subdivision in accordance with the standards of the Town of Vass. The developer shall be required to pay to the electric company the cost of street lighting installation.

16.29.5 Underground Wiring

All subdivisions shall have underground wiring. Such underground wiring shall be installed in accordance with the standards of the electric utility company. The property owner shall be required to pay the charges for installation of the underground service, which charges will be made in accordance with the then effective underground electric service plan as filed with the North Carolina Utilities Commission.

16.30 Other Requirements

16.30. 1 Placement of Monuments

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

16.30.2 Construction Procedures

No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all the requirements of this ordinance have been met. The property owner, prior to commencing any work within the subdivision, shall make arrangements with the Subdivision Administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

16.30.3 Oversized Improvements

The Town of Vass may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Town requires the installation of improvements in excess of the standards required in this ordinance, including all standards adopted by reference, the Town shall pay the cost differential between the improvement required and the standards in this ordinance.

16.31 Dedication of Roads and other Infrastructure

Offers of dedication of public roads and sidewalks shall not be accepted by the Town until the final lift of pavement is complete and installation of sidewalks or walkways in rights of ways. Prior to acceptance, the infrastructure shall pass an inspection and all repairs shall be made. Offers of dedication may be accepted by the Board of Commissioners through Board action during a public meeting.

Article 17, AMENDMENTS AND DEVELOPMENT MORATORIA

17.1 Amendments in General

A. Amendments to the text of this Ordinance or to the Official Zoning Map may be made in accordance with the provisions of this Article.

B. The term major map amendment shall refer to an amendment that addresses the zoning district classification of five (5) or more tracts of land in separate ownership, or any parcel of land (regardless of the number of lots or owners) in excess of fifty (50) acres. All other amendments to the Official Zoning Map shall be referred to as minor map amendments.

17.2 Initiation of Amendments

A. Whenever a request to amend this Ordinance is initiated by the Town Board of Commissioners, the Planning Board, the Zoning Board of Adjustment, or the Town Administration, the Town Attorney, in consultation with the Administrative Officer, shall draft an appropriate ordinance and present that ordinance to the Town Board of Commissioners so that a date for a public hearing may be set.

B. Any other person may also petition the Town Board of Commissioners to amend this Ordinance. The petition shall be filed with the Administrative Officer and shall include, among the information deemed relevant by the Administrative Officer:

1. The name, address, and telephone number of the applicant;

2. A legal description (metes and bounds) of the land affected by the amendment if a change in zoning district classification is proposed;

3. The alleged error in this Ordinance or on the Official Zoning Map, if any, that would be remedied by the proposed amendment;

4. The changing or changed conditions, if any, of neighborhoods or areas in the Town that make the proposed amendment reasonably necessary in order to promote the public health, safety, and welfare;

5. The manner in which the proposed amendment will carry out the purpose of the adopted Land Use Development Plan;

6. All other circumstances, factors and reasons that the applicant offers in support of the proposed amendment;

7. A description of the proposed map change, or a summary of the specific objective of any proposed change in the text of this Ordinance;

8. First class stamped envelopes containing the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 17.2.2 (Hearing Required; Notice).

C. Upon receipt of a petition as provided in Subsection B, the Administrative Officer shall either:

1. Treat the proposed amendment as one initiated by the Town Administration and proceed in accordance with Subsection A if he/she believes that the proposed amendment has significant merit and would benefit the general public, or

2. Forward the petition to the Town Board of Commissioners, with or without written comment, for a determination of whether an ordinance should be drafted and a public hearing set in accordance with Subsection D.

D. Upon receipt of a proposed amendment as provided in Subsection A, the Town Board of Commissioners may establish a date for a public hearing on it. Upon receipt of a petition for an Ordinance amendment as provided in Subsection B, the Town Board of Commissioners may summarily deny the petition or set a date for a public hearing on the requested amendment and order the Town Attorney, in consultation with the Administrative Officer, to draft an appropriate ordinance.

17.2.1 Planning Board Consideration of Proposed Amendments

A. If the Town Board of Commissioners set a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the Planning Board for its consideration.

B. The Planning Board shall endeavor to review the proposed amendment in such a timely fashion that any recommendations it may have can be presented to the Town Board of Commissioners at the public hearing on the amendment. However, if the Planning Board is not prepared to make recommendations at the public hearing, it may request the Town Board of Commissioners to delay final action on the amendment until such time as the Planning Board can present its recommendations.

C. 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 Town Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board; however, a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan or other adopted plan(s) shall not

preclude consideration or approval of the proposed amendment by the Town Board of Commissioners.

D. If no written report is received from the Planning Board within forty-five (45) days of referral of the amendment to the Board, the Town Board of Commissioners may proceed in its consideration of the amendment without the Planning Board's report. The Town Board of Commissioners is not bound by the recommendation, if any, of the Planning Board.

E. No Planning Board member shall 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 matter.

17.2.2 Hearing Required; Notice

A. No ordinance that amends any of the provisions of this Ordinance may be adopted until a public hearing has been held on such ordinance.

B. The Administrative Officer shall publish a notice of the public hearing on any ordinance that amends the provisions of this Ordinance once a week for two (2) successive weeks in a newspaper of general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing this period, the date of publication shall not be counted, but the date of the hearing shall be.

C. The Administrative Officer shall mail written notice of the public hearing via first class mail to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment, as well as the owners of all adjacent properties, including those across the street, railroad, or other transportation corridor from the property to be rezoned by the amendment. The notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing. The Administrative Officer shall certify to the Town Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

D. The first-class mail notice required by Subsection C shall not be required if the rezoning directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Town elects to use the expanded published notice in a newspaper of general circulation within the area where the rezoning is proposed. The expanded published notice shall consist of an advertisement of the public hearing that is no less than one-half (1/2) of the newspaper page in size. The Administrative Officer shall publish the notice once a week for two (2) successive weeks. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing this period, the date of publication shall not be counted, but the date of the hearing shall be. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax

listing for the affected property, shall be notified by first class mailed notice, as prescribed in Subsection C.

E. The Administrative Officer shall also post notices of the public hearing on the property being rezoned by the proposed amendment or on an adjacent public street or highway right-of-way. When multiple parcels are involved, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The Administrative Officer may elect to take any other action deemed to be useful or appropriate to give notice of the public hearing on any proposed amendment. The notice(s) shall be posted no less than ten (10) days prior to date of the public hearing.

F. **Notice to NCDOT.** Pursuant to NCGS 136-153 (Zoning Changes), The Administrative Officer shall give written notice to the Department of Transportation of the establishment or revision of any industrial zone within six hundred and sixty (660) feet of interstate or primary highways. Notice shall be by registered mail sent to the offices of the Department of Transportation in Raleigh, North Carolina, within fifteen (15) days after the effective date of the zoning change or establishment.

G. The notices required or authorized by this Section shall:

1. State the date, time, and place of the public hearing,

2. Summarize the nature and character of the proposed change,

3. If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment,

4. State that the full text of the amendment can be obtained from the Town Clerk, and

5. State that changes in the proposed amendment may be made following the public hearing.

6. The posted notice shall only be required to state the property is subject to a rezoning request, that a public hearing will be held on the matter, and give contact information on where to obtain information on the request and the date and time of the hearing.

H. The Administrative Officer shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the Town Board of Commissioners intention that no failure to comply with any of the notice provisions (except those set forth in Subsection B) shall render any amendment invalid.

17.2.3 Town Board of Commissioners Action on Amendments

A. At the conclusion of the public hearing on a proposed amendment, the Town Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its rules of procedure.

B. The Town Board of Commissioners are not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

C. Voting on amendments to this Ordinance shall proceed in the same manner as other ordinances.

D. Prior to adopting or rejecting any zoning amendment, the Town Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan or other officially adopted plan, and explaining why the Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

E. A Town Board of Commissioners 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.

17.2.4 Ultimate Issue Before Town Board of Commissioners on Amendments

In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the Town Board of Commissioners is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and excluded. In particular, when considering proposed minor map amendments:

1. The Town Board of Commissioners shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one (1) of the possible range of uses permitted in the requested classification. Rather, the Town Board of Commissioners shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

2. The Town Board of Commissioners shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

3. Pursuant to NCGS 160D-601 (Procedure for Adopting or Amending Ordinances Under Article), (b), if Fort Bragg Military Reservation provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the

base, the Town Board of Commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance or amendment.

4. The Town Board of Commissioners shall consider whether or not its action is consistent with an adopted comprehensive plan or other officially adopted plan, and if the action taken is reasonable and in the public interest. When a zoning map amendment is made that is inconsistent with any Future Land Use Map associated with the Comprehensive Land Use Plan, the Future Land Use Map is deemed amended at the same time. This Comprehensive Land Use Plan amendment is to the map itself, not any text and shall not require a separate application or fee.

5. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness may consider, among other 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 is in the public interest; and (v) any changed conditions warranting the amendment. If the zoning map amendment qualifies as a large-scale rezoning under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning. The statement of reasonableness and the plan consistency statement may be approved as a single statement.

17.3 Effect of Denial or Withdrawal on Subsequent Applications

When the Town Board of Commissioners shall have denied an application for an amendment, or the application shall have been withdrawn by the applicant by written notice after the first public hearing required, the Administrative Officer shall not accept another application for the same or similar amendment affecting the same property or portion thereof, until the expiration of a twelve (12) month period extending from the date of denial or withdrawal as appropriate. Nothing in this Section, however, shall prohibit the Town Board of Commissioners or Planning Board from initiating an amendment for any property at any time.

17.4 Development Moratoria

The Town Board of Commissioners may adopt temporary moratoria on any Town development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

17.4.1 Notice of Public Hearing

A. 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 sixty (60) days or any shorter period, the Town Board of Commissioners 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 (7) days before the date set for the hearing.

B. A development moratorium with a duration of sixty-one (61) days or longer, and any extension of a moratorium so that the total duration is sixty-one (61) days or longer, is subject to the published newspaper notice and hearing requirements required for a zoning map or text amendment.

17.4.2 Application of Moratorium on Existing/Pending Permits and Approvals

Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this Section shall not apply to:

1. Any project for which a valid zoning and/or building permit issued is outstanding, or

2. Any project for which a Special Use permit application has been accepted for review by the Town prior to the call for public hearing to adopt the moratorium, or

3. Development set forth in a site-specific or phased development plan approved pursuant to a granted vested right, or

4. Development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, that have been accepted for review by the Town prior to the call for public hearing to adopt the moratorium.

17.4.3 Contents of Ordinance Adopting Moratorium

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, alternative to a moratorium, were considered by the Town 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 imposition of the moratorium.

An express date for 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 Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

17.4.4. Extension of Moratorium

No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town 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 Section 17.6.3 (Contents of Ordinance Adopting Moratorium), including what new facts or conditions warrant the extension.

17.4.5 Judicial Review

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 Town shall have the burden of showing compliance with the procedural requirements of this Section.

Part 2. Conditional Zoning Rezoning

17.5 Approval of Conditional Zoning

Consideration of a conditional zoning is a legislative process that uses the same process and is subject to the same judicial standards of review as a general district rezoning. Except as otherwise provided in this part, the requirements of article 17, part 1 shall apply to the consideration of a conditional rezoning.

17.6 Optional Preapplication Conference

Any person proposing to request a conditional zoning may, but is not required to, meet with the Town staff and/or Board of Commissioners prior to submitting an application for a conditional zoning. The purpose of this meeting(s) shall be to give the applicant an opportunity to receive feedback on the proposal prior to submitting an application. An applicant is strongly encouraged to provide a rough sketch plan of the proposed project and any other details that will assist the Town staff and/or Board of Commissioners in evaluating the merits of the proposal. No fee will be charged for preapplication conferences.

17.7 Plans and Other Information to Accompany Petition.

A. Property may be rezoned to a conditional zoning with a petition submitted by the owners of all of the property to be included. A petition for conditional zoning must include, at a minimum, a site plan that complies with the requirements of section 3.9.3, “Specifications for Plan Preparation,” and a narrative that provides any proposed rules, regulations, and conditions, and any other proposed ordinances that will govern the development and use of the property in conjunction with the requirements of the Vass Zoning Ordinance and/or in lieu of specified portions of the Vass Zoning Ordinance.

B. The Board of Commissioners may allow less information or require more information to be submitted according to the needs of a particular application, but the applicant may rely in the first instance on the recommendations of the Administrator as to whether more or less information should be submitted.

C. In the course of evaluating the proposed use, the Administrator, Planning Board, or the Board of Commissioners may request additional information from the petitioner. This information may include the following:

    1. Proposed number and general location of all structures;
    2. Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
    3. Existing and approximate proposed topography, if available, at two-foot contour intervals or less;
    4. Scale of buildings relative to abutting property;
    5. Height of structures;
    6. Significant features of proposed development such as enhanced buffers or external setbacks, greenways and open space;
    7. Approximate locations of roads and points of ingress and egress;
    8. Information regarding availability of utilities to serve the project;
    9. Proposed number and location of signs; and
    10. Any other information needed to demonstrate compliance with this chapter.

D. The site plan and any supporting text shall constitute part of the petition for all purposes under this part.

E. The Administrator or his or her designee may require the petitioner to submit more than one copy of the petition, site plan and other supporting documents in order to have enough copies available to circulate to other town departments or other government agencies for review and comment. One copy shall be provided to Moore County Utilities if the County is to provide water and sewer.

17.8 Conditions on Approval of Petition.

A. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend and the Board of Commissioners may request that reasonable and appropriate conditions be attached to approval of the petition.

B. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to town ordinances and all relevant officially adopted plans. Conditions and site-specific standards may also address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The Board of Commissioners may approve conditions that vary, lower or impose higher standards than those that would ordinarily apply were the property at issue rezoned to something other than a conditional zoning district. The Board of Commissioners may also address additional fees, design requirements, and other development considerations allowed by NCGS 160D-703(b).

C. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the petitioner may be incorporated into the petition. The land owner must provide written consent to the final conditions.

17.9 Effect of Approval.

A. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and agreed upon conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the town Zoning Map. Minor modifications to the plans are

addressed in section 17.10.

B. If a petition is approved, the petitioner shall comply with all federal and State laws and the requirements of the Vass Code of Ordinances and Zoning and Subdivision Ordinances, including those for obtaining a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property.

C. Following the approval of the petition for conditional zoning, the subject property shall be identified on the town Zoning Map by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letter “CZ” (for example a Mixed Used conditional zoning district would be designated as “MU-CZ”).

17.10 Modification of Approval.

Changes to an approved petition for conditional zoning or to the conditions attached to an approved petition for conditional zoning shall be treated the same as amendments to the text of this ordinance or to the official Zoning Map and shall be processed in accordance with the requirements of this article. Notwithstanding the foregoing, the Board of Commissioners may, as part of the conditions imposed on the conditional zoning, include a list of modifications that may be approved by Administrator or other appropriate town staff without further review by the Town Board. The Board may allow staff to review proposed modifications to plans and if they are considered to be minor in nature and not a modification of use or density, they may be approved on the staff level. Prior to approval, staff may consult with the Planning Board or Board of Commissioners to ensure that it is agreed to be a minor modification. Such modifications may include items such as minor changes to exterior elevation, signage, and landscaping specifications.

Article 18, DEFINITIONS

18.1 Specific Purposes

This Article provides definitions and rules for interpretation of this Ordinance.

18.2 Rules of Interpretation

For the purpose of this Ordinance, certain words used herein shall be interpreted as follows:

1. The word “shall” is always mandatory and the word “may” is permissive;

2. The words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied”;

3. Words importing the masculine gender include the feminine and neuter;

4. Words used in the singular include the plural and words used in the plural include the singular;

Terms not herein defined shall have the meanings customarily assigned to them.

18.3 Definitions

Abandonment – To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting – Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Use – See Section 9.2 (Accessory Uses).

Adjacent - Property abutting directly on the boundary of, touching, or sharing a common point. This term shall also include properties located across streets, easements, or other public/private rights-of-way.

Administrative decision - Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in 160D or local government development

regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative hearing - A proceeding to gather facts needed to make an administrative decision.

Adult Day Care Facility – The provision of group care and supervision in a place other than their usual place of abode on a less than twenty-four (24) hour basis to adults who may be physically or mentally disabled. The following programs are exempted from the provisions of NCGS 131D-6 (Certification of Adult Day Care Programs; Purpose; Definition, Penalty):

1. those that care for three (3) people or less;

2. those that care for two (2) or more persons, all of whom are related by blood or marriage to the operator of the facility;

3. those that are required by other Statutes to be licensed by the Department of Human Resources.

Adverse Impacts – Off-site impacts that may have a negative effect on adjacent properties. These effects may include, but are not limited to, the following: noise, vibration, air pollution, liquid waste, glare, traffic congestion, and storm water runoff.

Agricultural Uses - Land used as pasture or in the commercial production of crops, horticultural products, fish hatcheries, or aquaculture. Also, for the purposes of this Ordinance, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes, but is not limited to, poultry and hoofed animals such as cattle, horses, swine, goats, and sheep. Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals for marketing and farm tenant dwellings.

Airport - A place where aircraft may take off and land, be repaired, take on or discharge passengers or cargo, be stored or refueled, and includes customary accessory uses.

Antenna – Equipment designed to transmit or receive electronic signals.

Arcade/Game Room – Any place or facility where three or more pinball or other similar electronic games are played for amusement only. Shall not be construed so as to include bingo games, internet or sweepstakes cafes or any form of electronic game promotions. **(Amended 2/14/11)**

Archery - The art, sport, or skill of shooting with a bow and arrow.

Automatic Teller Machine, Freestanding – A machine or device through which a customer can conduct certain banking transactions and which is not located on the same

lot as the bank or financial institution with which the machine is associated. The purpose of this definition is to distinguish between teller machines operated as accessory uses to banks located in principal buildings/structures where customers can choose to do their banking either inside the building or at the teller machine, and teller machines that are totally separate from bank buildings and therefore generate additional traffic.

Automobile Repair Shop or Body Shop – An establishment where the following services are available: major mechanical repairs, including engine overhaul and transmission work, body work, straightening of body parts, painting, and welding.

Automobile Service Station – An establishment where gasoline or diesel fuel is supplied at retail and where, in addition, the following services only may be rendered and sales made:

1. Sales and service of spark plugs, batteries, and distributor and ignition system parts;
2. Sales, service, and repair of tires, but not recapping or re-grooving;
3. Replacement of mufflers, tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like;
4. Radiator cleaning, flushing, and fluid replacement;
5. Sale of automotive washing and polishing supplies;
6. Greasing and lubrication;
7. Providing and repairing fuel pumps, oil pumps, and lines;
8. Minor adjustment and repair of carburetors;
9. Emergency repair of wiring;
10. Minor motor adjustment not involving removal of the head or crankcase;
11. Sale of beverages, packaged foods, tobacco products, and similar convenience goods for customers, as accessory and incidental to principal operations;
12. Provision of road maps and other travel information to customers;
13. Provision of restroom facilities;
14. Warranty maintenance and safety inspections.

Uses permissible at an automobile service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in automobile service stations.

Bed and Breakfast Establishment – A use that takes place within a building that was/is designed and used as a single-family detached dwelling unit, consists of a single dwelling unit together with the rental of one (1) or more bedrooms on a daily or weekly basis to tourists, vacationers, or similar transients, where the provision of meals, if provided at all, is limited to registered guests, and where the bed and breakfast operation is conducted primarily by persons who reside within the dwelling unit, with the assistance of not more than an equivalent of two (2) full-time employees.

Bedroom – A private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

Berm – A man-made mound of earth whose length exceeds its height by a factor of at least five (5) and whose side slopes are constructed at a steepness ratio of six-to-one (6:1) or steeper. The side slope of a berm shall not be constructed steeper than two-to-one (2:1).

Best Management Practices (BMP's) - A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

Billboard – An on- or off-premise sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

Billiard Parlor/Pool Room – Any establishment that has one or more billiard/pool tables or whose principal purpose is the operation of a billiard parlor or pool room regardless of the total number of billiard/pool tables. Billiard or pool tables are not permitted in grocery or convenience stores. **(Amended 2/14/11)**

Block - A piece of land bounded on one or more sides by streets or roads.

Building Setback Line - A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

Boarding House – A residential use consisting of at least one (1) dwelling unit together with more than two (2) rooms that are rented out, or are designed or intended to be rented, but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer-term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

Buffer - An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Building – A structure designed to be used as a place of occupancy, storage or shelter.

Building, Accessory – A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use. A carport of any kind and a storage shed are considered accessory buildings.

Building, Principal – The primary building on a lot, or a building that houses a principal use.

Built-Upon Area – "Built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck, the water area of a swimming pool, the surface of number 57 stone laid at least 4" thick over a geotextile fabric, a trail that is unpaved or paved so long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second, landscaping material, including, but not limited to, gravel, mulch, and, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle, or artificial turf manufactured to allow water to drain through the back of the turf. Also see **Impervious Surface.**

Camp – A recreation use that may include locations for tents, cabins, or other recreational sleeping structures, but would not include manufactured homes or recreational vehicles. A camp may be owned by a profit or non-profit corporation.

Car Wash, Automatic - A commercial facility where vehicles are mechanically washed.

Car Wash, Self Service - A structure housing equipment used by individuals for spray washing vehicles.

Cemetery - A place used or to be used and dedicated or designated for earth interments of human remains or pet animal remains.

Center Line of Street - The centerline of a street right-of-way.

Child Care – A program or arrangement where three (3) or more children less than thirteen (13) years of age, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four (4) hours, but less than twenty-four (24) hours, per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

1. Arrangements operated in the home of any child receiving care if all the children in care are related to each other, or no more than two (2) additional children are in care;

2. Recreational programs operated for less than four (4) consecutive months in a year;

3. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;

4. Drop-in or short-term care provided while parents participate in activities that are not employment related, and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;

5. Public schools;

6. Nonpublic schools described in Part 2 (Qualified Nonpublic Schools) or Article 39 (Nonpublic Schools) of Chapter 115C (Elementary and Secondary Education) of the North Carolina General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child day care facility as defined under Child Day Care Facility of or less than six and one-half (6½) hours per day either on or off the school site;

7. Bible schools conducted during vacation periods;

1. Care provided by facilities licensed under Article 2 (Licensure of Facilities for the Mentally Ill, the Developmentally Disabled, and Substance Abusers) of Chapter 122C (Mental Health, Developmental Disabilities, and Substance Abuse Acts of 1985) of the North Carolina General Statutes;

2. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and

3. Any child care program or arrangement consisting of two (2) or more separate components, each of which operates for four (4) hours or less per day with different children attending each component.

Child Care Center – An arrangement where, at any one (1) time, there are three (3) or more pre-school children, or nine (9) or more school-age children receiving child care.

Child Day Care Facility – Includes child care centers, family child care homes, and any other child care arrangement not excluded by NCGS 110-86 (Definitions), (2) (Child Care), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

Circulation Area – That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Clinic - Establishments where humans receive treatment of illnesses or pregnancy, or examination by a doctor, dentist, optician, psychologist, or other similar medical professional on an out-patient basis.

Club or Lodge - A non-profit association of persons, who are bona fide members paying dues, that owns, hires, or leases a building, or portion thereof; the use of such premises

being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee or similar body chosen by the members. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objectives of the organization, and further provided that such sale of alcoholic beverages is in compliance with all applicable Federal, State, and local laws.

Cluster Development - The grouping of buildings in order to conserve land resources and provide for innovation in the design of a project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

College or University - An institution other than a trade school that provides full-time or part-time education beyond high school.

Columbarium - A structure or building exposed above ground intended to be used for the interment of the cremated remains of a deceased person or animal.

Combination Use – A use consisting of a combination on one (1) lot of two (2) or more principal uses separately listed in the Table of Permitted Uses. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. In addition, when two (2) or more separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use).

Commercial – Relates to, or is connected with, trade and traffic or commerce in general; is occupied with business and commerce.

Commercial Use – Term implies use in connection with, or for furtherance of, a profit-making enterprise.

Community Center – A publicly-sponsored, non-profit indoor facility providing for one (1) or several of various types of recreational uses. Facilities in a community center may include, but are not limited to, gymnasia, swimming pools, indoor court areas, meeting/activity rooms, and other similar uses. For the purposes of this definition, the term publicly-sponsored means that a significant Town investment is involved in some fashion in the facility's development or operations.

Comprehensive plan - A comprehensive plan that has been officially adopted by the governing board pursuant to G.S. 1660D-501.

Conditional zoning - A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Condominium - A form of property ownership whereby the owner gains ownership of an interior space within a building. The building structure, the land under the building, and all of the surrounding land is commonly owned by all of the inhabitants on a proportional basis.

Convenience Store – A one (1) story retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract, and depends upon, a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "Fast Fare," "7-11," and "Pantry" chains.

Correctional Facility - Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense.

Critical Area – The land area within one-half (1/2) mile of the normal pool of an existing or proposed water supply impoundment, or the ridgeline of the watershed, whichever is less.

dBA - The sound pressure level, in decibels, as measured using the impulse mode and "A" weighting network on a precision sound level meter.

Day Care Center – Any child care arrangement that provides day care on a regular basis for more than four (4) hours per day for more than five (5) children of preschool age.

Decision-making Board - A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this Ordinance.

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

Determination - A written, final, and binding order, requirement, or determination regarding an administrative decision.

Density - The number of dwelling units per acre.

Designated Buffer – An area of land adjacent to lakes or watercourses within the Watershed Overlay District that remains undisturbed in order to reduce the sedimentation and pollution of such lakes or watercourses.

Developed parcel (watershed) - Any parcel of a parcel pair that, under any approval granted under Article 13, may be developed to a development density or intensity that exceeds the maximum development density or intensity that would apply to the parcel if the paired-parcel averaged-density development option were not available.

Developer – A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development

Development –Any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
b. The excavation, grading, filling, clearing, or alteration of land.
c. The subdivision of land as defined in G.S. 160D-802.
d. The initiation or substantial change in the use of land or the intensity of use of land.
This definition does not alter the scope of regulatory authority granted by this Ordinance.

Development approval - An administrative or quasi-judicial approval made pursuant to this Ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation - A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to 160D, or a local act or charter that regulates land use or development.

Dimensional Nonconformity - A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Discharging Landfill - A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Discontinued - When the structure is vacated and no physical attempt is made to reoccupy the structure and utilize it for its current use.

Drainage Facilities – Any temporary or permanent natural or man-made facility utilized to divert, convey, or store storm water runoff. Such facilities shall include, but shall not be limited to, drainage pipes and culverts, swales and ditches, intermittent and perennial streams, catch basins, drainage junction boxes and manholes, yard inlets, retention and

detention basins and ponds, curbing that will carry runoff, dams and weirs, and culvert outlet stabilization and protection devices.

Drive-In and Drive-Through Window Establishment - An establishment that dispenses products or services to patrons who remain in vehicles.

Driveway – That portion of a vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Duplex – A two (2)-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Dwelling - Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of this 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling Unit – An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used, or held ready for use, as a permanent residence by one (1) family.

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

Effective Date of This Article – The effective date of this article as originally adopted, or the effective date of an amendment to it, if the amendment makes a structure, sign or use nonconforming.

Effective Date of This Ordinance - Whenever this Ordinance refers to the “effective date of this Ordinance”, the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendment, rather than this Ordinance as originally adopted, creates a nonconforming situation.

Electronic Game Promotions – Any legal activity utilizing electronic devices, including computers, to provide games or simulated games or gambling the use of which may award to the player, or notify the player of, a prize of cash or cash equivalents. Electronic Game Promotions include, but are not limited to arcade sweepstakes and internet or phone card sweepstakes that offer prizes of cash or cash equivalents. Patrons and employees must be at least 18 years old. **(Amended 2/14/11)**

Evidentiary hearing - A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under 160D.

Existing Development - Those projects that are built, or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance, based on criteria established under Sections 1.16 (Vested Rights; Site Specific Development Plan) and 1.17 (Vested Rights Upon Issuance of Building Permits).

Expenditure – A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding, contractual commitments to make future expenditures, as well as any other changes in position.

Extraterritorial Planning Area – That portion of the Town's planning jurisdiction that lies outside of the Town's corporate boundaries.

Family – An individual or two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than three (3) persons who are not related by blood, marriage, or adoption living together in a dwelling unit. A family may include five (5) or fewer foster children.

Family Care Home – A facility designed to provide room, board, and care for six (6) or fewer handicapped persons in a family environment. Handicapped persons include those with physical, emotional, or mental disabilities, but not those who have been deemed dangerous to themselves or others.

Family Child Care Home – A child care arrangement located in a residence where, at any one (1) time, more than two (2) children, but fewer than nine (9) children, receive child care.

Fill Site – An area being used, or proposed to be used, as a disposal site for fill material consisting of inert debris strictly limited to concrete, brick, concrete block, uncontaminated soil, rock, and gravel and involving no excavation. The purpose of a fill site is to improve land use potential or other beneficial reuses.

Firearm - A weapon, including pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

Firing Line - A line parallel to a target from which firearms or arrows are discharged.

Flag Lot – An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm of the lot that is less than fifty percent (50%) of the presumptive minimum required lot width as set forth in Section 10.2 (Minimum Lot Widths), or if no minimum lot width is specified therein, is less than the lesser of fifty percent (50%) of the width of the buildable portion of the lot, or fifty (50) feet.

Floodplain – Any land susceptible to being inundated by water from the base flood. As used in this Ordinance, the term refers to that area designated as subject to flooding from the base flood (one hundred (100) year flood) on the "Flood Boundary and Floodway

Map" prepared by the United States Department of Homeland Security, Federal Emergency Management Agency, a copy of which is on file in the Town Clerk's Office.

Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. As used in this Ordinance, the term refers to that area designated as subject to flooding from the base flood (one hundred (100) year flood) on the "Flood Boundary and Floodway Map" prepared by the United States Department of Homeland Security, Federal Emergency Management Agency, a copy of which is on file in the Town Clerk's Office.

Floor – The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Fort Bragg Coordinating Official - The Executive Director of the Regional Land Use Advisory Commission (RLUAC) who acts as a liaison with the Town of Vass for the purpose of coordination under the provisions of this Ordinance. The Fort Bragg Coordinating Official reviews and, as applicable, provides comments related to Potential Incompatible Development in the Town of Vass and as otherwise required by this Ordinance, the RLUAC Coordination Agreement, or state law.

Fraternity or Sorority House - A structure used as a dwelling by fraternity and sorority members in association with a college or institution.

Frontage - The dimension of a property or portion of a property that is adjacent to a street. Side yards of corner lots are excluded.

Funeral Home - A building used in the preparation of the dead for burial or cremation. Also, a facility where funeral services are held, funeral vehicles are stored, and caskets and other funeral supplies are sold.

Golf Course, Executive – A golf course comprised of nine (9) or eighteen (18) holes with a combination of par 3's and par 4's, the sum of which equals pars 29 or 30 for a nine (9) hole course or pars 58 to 60 for an eighteen (18) hole course.

Golf Course, Par-Three – A golf course comprised of nine (9) or eighteen (18) holes with a combination of par 3's, the sum of which equals par 27 or par 54, respectively.

Golf Course, Regulation - A golf course comprised of nine (9) or eighteen (18) holes with a combination of par 3's, par 4's, and par 5's, the sum of which equals pars 35 or 36 for a nine (9) hole course, or pars 70 to 73 for an eighteen (18) hole course.

Governing Board - The city council or board of county commissioners.

Gross Floor Area – The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Group Care Home – An establishment qualified for a license by the State of North Carolina for the provision of resident services to seven (7) or more individuals of whom one (1) or more are unrelated, and who are handicapped, aged, disabled, or who are runaway, disturbed, or emotionally deprived children who are undergoing rehabilitation or extended care, and who are provided services to meet their needs. This definition includes group homes for all ages, halfway houses, boarding homes for children, and convalescent and nursing care homes, and nursing care institutions.

Guest Room - A room or suite used as living accommodations for one (1) or more paying visitors.

Habitable Floor – Any floor useable for living purposes that includes working, sleeping, eating, cooking, recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

Halfway House – A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 35A-1101 (Definitions), (12)), or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

Hazardous Material - Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Hazardous Substance – Any substance that may pose a danger to the public health or safety if contained in the public water supply. This includes all substances defined as hazardous chemicals by the community right to know reporting requirements under Sections 311 and 312 of the Superfund Amendments and Reauthorization Act of 1986, and by the North Carolina Hazardous Chemicals Right to Know Act (NCGS 95-173 (Short Title) to 95-218 (Severability).

Home-Based Business- Any business, occupation, or activity undertaken for gain within a residential structure or an accessory building that is incidental and secondary to the use of the structure as a dwelling unit and does not use more than 25% of the total gross floor area of the principal residential structure. The following uses are examples of permitted home-based businesses:

1. Offices for such professionals as, but not limited to, architects, brokers, counselors, clergy, dentists, doctors, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, construction contractors,

landscape design, surveyors, cleaning services, salespersons and manufacturer's representatives, and travel agents;

2. Personal services, including barbershops, beauty parlors, manicure and pedicure shops, pet grooming, Family Child Care Homes, catering and chauffeuring services;

3. Instructional services, including music, dance, art and craft classes, and tutoring;

4. Studios for artists, sculptors, musicians, photographers, and authors;

5. Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, and jewelry making;

6. Repair services, including watch and clocks, computers, electronic devices;

Examples of prohibited home-based businesses include:

1. Kennels, stables, veterinary clinics/hospitals;

2. Medical and dental clinics, hospitals;

3. Restaurants, clubs, drinking establishments;

4. Motor vehicle/small engine repair;

5. Lawn mower/small appliance repair;

6. Undertaking and funeral parlors;

7. Retail sales of goods not made on the premises;

8. Sexually Oriented Businesses;

9. Rooming, boarding, and tourist homes/bed and breakfast establishments.

Home Office - An accessory use in which work for compensation is undertaken, including, but not limited to, receiving or initiating correspondence, such as phone calls, mail, faxes, or e-mail; preparing or maintaining business records; word and data processing; and telephone, mail order, and off-premises sales.

Horse Stable, Private - A stable on a lot not less than five (5) acres in area, where such horses are owned by the owners or occupants of the premises, and are not kept for remuneration, hire, or sale. Number of horses are limited to (1) one per useable acre of pasture land.

Hospital - An institution providing human health services primarily for in-patient medical and surgical care for the physically or mentally sick and injured and including related support facilities such as laboratories, out-patient departments, staff offices, food services, and gift shop.

Hotel, Motel - Building(s) containing sleeping accommodations for ten (10) or more persons, primarily the temporary abode of persons who have their residences elsewhere.

Impervious Surface – A surface composed of any material that impedes or prevents the natural infiltration of water into the soil. Also known as **Built-upon Area.**

Impervious Surface Ratio - A measure of the intensity of land use that is determined by dividing the total area of all impervious surfaces on a site by the site area.

Industry, Minor – Uses that involve indoor processing or assembly of finished or partially finished goods and do not require large stockpiles of raw material. Processing and storage activities take place within enclosed buildings, which limit the creation of noise, vibration, dust, glare, heat, odor, and smoke. Minor manufacturing examples include production or repair of small electronic parts and equipment; sewing or assembly of textiles into consumer products; computer and electronics assembly; furniture assembly; and the assembly of pre- fabricated parts.

Industry, Major - Uses that tend to require large amounts of bulk or unrefined materials which are typically processed and stored outdoors on the site. These uses require a significant amount of energy for the processing of raw materials, and are likely to generate significant noise, vibration, dust, glare, heat, odor, smoke, truck traffic, in the immediate vicinity of the use. Examples include manufacturing and assembly of machinery; manufacturing of petroleum or petroleum-related products; rubber and plastics manufacturing; and adhesives, coatings, or paint manufacturing.

Intermittent Stream – A stream or portion of a stream that flows only in direct response to precipitation. It receives little or no water from springs and only temporary supply from melting snows or other sources. It is dry for a large part of the year.

Internally Illuminated Signs – Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that are filled with neon or some other gas that glows when an electric current pass through it, and are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

Junked Motor Vehicle - A vehicle that:

1. does not display a current license plate and/or current inspection sticker; or

2. is partially dismantled; or

3. cannot be self-propelled or moved in the manner in which it was originally intended to move.

Kennel – A commercial operation that provides food, shelter, and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or engages in the breeding of animals for sale.

Lake or Watercourse – Any stream, river, brook, swamp, creek, run, branch, waterway, reservoir, lake, or pond, natural or impounded, in which sediment may be moved or carried in suspension and that could be damaged by accumulation of sediment and pollutants.

Landfill - A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A (Public Health), Article 9 (Solid Waste Management) of the North Carolina General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.

Landfill, Construction and Demolition (C & D) – A disposal site for solid waste resulting from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures.

Landfill, Land Clearing and Inert Debris (LCID) – A disposal site for stumps, limbs, leaves, concrete block, brick, rock, gravel, wood, and uncontaminated earth. Disposal of any other types of waste must be approved by the State Division of Solid Waste Management.

Landfill, Sanitary – See **Landfill**.

Landowner or owner - The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Legislative decision - The adoption, amendment, or repeal of a regulation under 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of 160D

Legislative hearing - A hearing to solicit public comment on a proposed legislative decision

Loading and Unloading Area – That portion of the vehicle accommodation area used to satisfy the requirements of Section 15.10 (Loading and Unloading Areas).

Lot – A parcel of land having frontage on a public street or other officially approved means of access, such as a recorded easement occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this ordinance.

Lot Types:

Corner Lot. A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135º.

Double Frontage Lot. A continuous (through) lot which is accessible from both streets upon which it fronts.

Interior Lot. A lot other than a corner lot with only one frontage on more than one street.

Through Lot or a "Double Frontage Lot". A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Reversed Frontage Lot. A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135º) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Single-Tier Lot. A lot which backs upon a limited access highway, a rail read, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Lot Area – The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and thirty (30) feet from the center of the traveled portion of the street.

Lot, Depth - The mean horizontal distance between front and rear lot lines.

Lot, Substandard - A parcel of land held in separate ownership having frontage on a public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

Lot, Width - The distance between side lot lines measured at the building lines.

Lot of Record - A lot that is part of a subdivision plat of which has been recorded in the Office of the Register of Deeds of Moore County, or a lot described by metes and bounds, the description of which has been so recorded.

Major Subdivision - Any subdivision of land not meeting the definition of Minor Subdivision.

Major Variance - A variance that results in the complete waiver of a management requirement, or relaxes, by a factor of more than ten percent (10%), any management requirement that takes the form of a numerical standard.

Manufactured Home – A dwelling unit that:

1. is not constructed in accordance with the standards set forth in the North Carolina State Building Code,

2. is composed of one (1) 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, and

3. exceeds forty (40) feet in length and eight (8) feet in width.

Manufactured Home, Class A – This type of manufactured home includes double-wide and multi-sectional manufactured homes. Type A manufactured homes must meet or exceed the construction standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction and must satisfy the following additional criteria: **(Amended 2/14/11)**

1. The manufactured home has a length not exceeding four (4) times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

2. The manufactured home has a minimum of one thousand (1,000) square feet of enclosed and heated living area,

3. The pitch of the manufactured home's roof has a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction,

4. All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter,

5. The exterior siding consists predominantly of vinyl or aluminum lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, stucco, or masonry, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction,

6. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous**,** permanent masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, is installed under the perimeter of the manufactured home,

7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with standards set by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground, and

8. The moving hitch, wheels and axles, and transporting lights have been removed.

It is the intent of these criteria to ensure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling. These criteria are to be met prior to issuance of a Certificate of Occupancy for the home by the Administrative Officer.

Manufactured Home, Class B – This type of manufactured home includes single-wide manufactured homes. Type B manufactured homes meet or exceed the construction standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction and satisfy the following additional criteria: **(Amended 2/14/11)**

1. When located in a manufactured home park, the manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and underpinned and skirted with vinyl or other approved skirting materials recommended by the manufacturer, un-pierced except for required ventilation and access,

2. When located on an individual lot, the manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, is installed under the perimeter of the manufactured home,

3. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with standards set by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground, and

4. The moving hitch, wheels and axles, and transporting lights have been removed.

5. The manufactured home has a minimum of 980 square feet of enclosed and heated living area. **(Amended 2/12/11)**

These criteria are to be met prior to issuance of a Certificate of Occupancy for the home by the Administrative Officer.

Manufactured Home Park – A residential use in which more than one (1) manufactured home is located on a single lot.

Manufactured Home Space - A parcel of land in a manufactured home park for the placement of a single manufactured home for the exclusive use of its occupants.

Mini-Warehouse - A building divided into units that are leased individually for storage. Storage shall be limited to dead storage. For the purposes of this Ordinance, dead storage excludes on site retail, manufacturing, or service operations. Dead storage also excludes operations with employees on site or operations with material handling on site. A single caretaker's residence may be included.

Minor Subdivision - A division of a tract of land where:

a) no more than four lots (including the residual acreage) are created in any three-year period, whether such lots are created at one time or over an extended period of time;
b) all lots front on an existing public street;
c) public water and/or sanitary sewerage systems, other than laterals to serve individual lots, are not to be extended; and
d) the installation of drainage improvements that would require easements through one or more lots to serve other lots are not necessary.

Minor Variance - A variance that does not qualify as a major variance.

Mobile Food Vendor – A mobile food vendor is defined as any entrepreneur who sells, displays, solicits or accepts orders for fruits, vegetables (except pumpkins), or other foodstuffs or from a vehicle, tent, temporary roadside stand or display or a lunch wagon or eating cart.

Mobile Vendor – A vendor of any product other than fruits, vegetables, or other foodstuffs who sells products from a vehicle, tent, temporary roadside stand or display. Mobile vendors include persons selling pumpkins, Christmas trees and the sale of other seasonal items.

Modular Home – A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly

on a permanent foundation. Among other possibilities, a modular home may consist of two (2) or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site. Modular homes bear a seal or label issued by the Department of Insurance pursuant to NSGS 143-139.1 (Certification of Manufactured Buildings, Structures or Components by Recognized Independent Testing Laboratory; Minimum Standards for Modular Homes).

Motor Vehicle - All motorized vehicles as defined by the State of North Carolina Department of Motor Vehicles, including, but not limited to, automobiles, trucks, tractor-trailers, buses, all-terrain vehicles (ATV's), and motorcycles. This definition does not include vehicles defined as heavy equipment.

Movie Theater, Drive-In - An outdoor facility where motion pictures are viewed from passenger vehicles.

Movie Theater, Indoor - A building or structure that contains an assembly hall for the showing of motion pictures.

Multi-Family Apartments – A multi-family residential use other than a multi-family townhome.

Multi-Family Residence – A residential use consisting of a building containing three (3) or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).

Multi-Family Townhomes – A multi-family residential use in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one (1) other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Museum - Establishments of a non-commercial nature, receiving some governmental funding that are used for the display of art, historic, or science objects for the purpose of education and research.

Night Club - An establishment that stays open after 10:00 PM on weekends or on more than an occasional basis that offers food and beverages or entertainment or amusements. This definition includes, but is not limited to, establishments that serve beverages to persons twenty-one (21) years of age and older, dance halls, discotheques, and similar establishments. Excluded from this definition are restaurants that meet both the requirements established by definition in this Ordinance and NCGS 18B-1000 (Definitions Concerning Establishments), (6) (Restaurant), clubs used by non-profit organizations, lodges used by non-profit organizations, theaters, and health and athletic facilities.

Nonconforming Lot - A lot existing at the effective date of this Ordinance (and not created for the purposes of evading the restrictions of this Ordinance) that does not meet the minimum area requirements of the district in which the lot is located.

Nonconforming Project - Any structure, development, or undertaking at the effective date of this Ordinance that would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nonconforming Situation - A situation that occurs when, on the effective date of this Ordinance, an existing lot or structure, or use of an existing lot or structure, does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed minimum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance. Nonconforming signs shall not be regarded as nonconforming situations for purposes of Article 14 (Signs) of this Ordinance, but shall be governed by the provisions of Section 6.9 (Nonconforming Signs) of this Ordinance.

Nonconforming Use - A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable for the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use).

Nursing Care Home – A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine (9) people.

Nursing Care Institution – An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine (9) people.

Office - A room, group of rooms, or building whose primary use is the conduct of a business, professional service, or governmental activity of a non-retail nature, including administration, record keeping, clerical work, and similar functions. This definition does not include manufacturing, processing, repair, or storage of materials or products.

Official Zoning Map - The duly adopted zoning map of the Town of Vass.

Official Maps or Plans - Any maps or plans officially adopted by the Vass Town Board.

Open Space - Areas of a development that allow for light, air, wildlife habitat, and for scenic and recreational use. Also included are areas designed to enhance the privacy of

the general appearance of a development. Private open space is open space that is owned by a corporation, individual, or homeowners association. Public open space is open space owned by a governmental jurisdiction or other entity that declares that the property is for the enjoyment of the general public.

Open Storage - Un-roofed storage areas, whether fenced or not.

Outparcel - Individual retail sites in a shopping center. The square footage of the outparcels is less than the square footage of the attached retail spaces that form the majority of the square footage of the shopping center.

Outside Display of Goods for Sale or Rent – Display outside of a fully enclosed building of the particular goods or pieces of merchandise or equipment that are themselves for sale. Outside display is to be distinguished from outside storage of goods that are not prepared and displayed for immediate sale or rent.

Paired-parcel averaged-density development - A development proposal that includes a parcel pair meeting the development standards of Article 13 and that qualifies for local development approval under the density-averaging provision of 15A NCAC 2B .0104(u).

Parcel pair - Two noncontiguous parcels of land under the same or separate ownership, or two contiguous parcels of land under separate ownership, the development plans for which have been submitted in tandem so as to qualify for density averaged development permission under Article 13.

Parking Area Aisles – That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking Lot - An area of land where vehicles are kept on a daily, overnight, or temporary basis, not to include the storage or junked, wrecked, or abandoned vehicles, vehicle parts, or the repair of vehicles.

Parking Space – That portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.

Paved – A surface covered with asphalt or concrete, or other similar material. Gravel or stone shall be considered an “unpaved surface”. .

Person – Any individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity operating as a unit.

Personal Service Establishment - An establishment where the primary purpose is providing for the care of physical components of a person or personal apparel.

Planning Jurisdiction – The area within the Town Limits, as well as the area beyond the Town Limits, within which the Town is authorized to plan for and regulate development pursuant to the authority granted in 160D of the North Carolina General Statutes.

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

Primary Residence with Accessory Apartment – A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit. An accessory apartment may also be located in a detached accessory building located on the same lot as the primary residence.

Private Road - A road not intended for public use or public dedication and that serves a limited number of lots, and therefore is typically not built to N.C. Department of Transportation standards. It is maintained by private property owners, and intended for use by those private property owners.

Property - All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

Public Facility - A building or area owned or used by any department or branch of the Town of Vass government, Moore County government, the State of North Carolina, or the Federal Government.

Public Park or Playground - A park or playground available to the general public.

Public Utility - A business or service that provides the public with electricity, gas, water and sewer service, telephone or cable television service.

Quasi-judicial decision - A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

Quasi Public - Uses rendering public services yet under private control.

Recycling Center - A building or an area where the primary activity is the separation of materials prior to shipment for manufacture into new materials. This shall not include junkyards or wrecking yards.

Recycling Drop Off Site - A site providing containers for the collection of recyclable materials, typically an accessory use. Recyclable materials are transported from the drop off site to another location for processing.

Repair Shop - A structure or area where the principal activity is the repair of equipment, and that is conducted in a totally enclosed building. Automobile repair shop or body shops and automobile service stations are a separate definition.

Reservation - A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

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

Restaurant - An establishment where food and drink are served as a principal activity. Included in this definition are cafeterias and lunch counters.

Retreat Center – A new or existing facility operated by a corporation or association of persons or churches for social and recreational purposes. A retreat center may be owned by a profit or non-profit corporation.

Riding Stable/Academy – A commercial facility or school that is open to the general public where horses are sheltered, fed, groomed, and bred. Typical accessory uses may include riding instruction, horse training, horse shows and auctions, a tack shop, and storage of feed and supplies.

Right-of-Way – A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for other special use. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or other use involving maintenance by a public agency, shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Rooming House – See **Boarding House**

Safety Fan - An area on a shooting range facility designed to contain all projectiles fired from a shooting range.

Salvage Yard - A space or building for the storage of metal scrap, scrap materials, or the dismantling of vehicles and machinery or where more than two (2) inoperable motor vehicles are placed, not to include vehicle storage areas.

Satellite Dish – A dish-shaped antenna designed for the reception of electronic signals.

School, Private - An institution that offers regular instruction at the preschool, primary, or secondary level, or serves disabled students, and that is not directly controlled and supervised by the Board of Education or the State of North Carolina, or a State agency. Among other things, this definition does not include child care centers, child day care

facilities, programs offering individual instruction, or courses offered in a non-institutional setting in a specialized subject.

School, Public - An institution that offers regular instruction at the preschool, primary, or secondary level, or serves disabled students, and that is directly controlled and supervised by the Board of Education or the State of North Carolina, or a State agency. Among other things, this definition does not include charter schools, child care centers, child day care facilities, programs offering individual instruction, or courses offered in a non-institutional setting in a specialized subject.

School, Technical, Trade, Vocational, or Business - An institution offering instruction beyond high school level with a course of study in vocational, technical, or other special subjects; or a facility offering instruction at any level in martial arts, art, drama, dance, speech, music, or similar personal skills.

Setback Line - The line on the front, rear, and sides of a lot, set according to the district regulations, that delineates the area upon which a structure may be built or maintained.

Sexually Oriented Business – An adult arcade, adult bookstore or adult video store, adult cabaret, adult massage parlor, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter studio, or any combination of the foregoing. As used in this Ordinance, the following definitions shall apply:

Adult Arcade (also known as “Peep Show”) – Any place to which the public is permitted or invited, wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities and/or specified anatomical areas.

Adult Bookstore or Adult Video Store – A commercial establishment that, as one (1) of its principal business purposes, offers for sale or rental, for any form of consideration, any one (1) of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities and/or specified anatomical areas; or

2. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Cabaret – A night club, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one (1) of its principal business purposes:

1. Persons who appear nude or semi-nude; or

2. Live performances that are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities and or specified anatomical areas.

Adult Massage Parlor – A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of North Carolina. This definition does not include an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Adult Motel – A hotel, motel, or similar commercial establishment that:

1. Offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas as one (1) of its principal business purposes; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

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

Adult Motion Picture Theater – A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one (1) of its principal business purposes that depict or describe specified activities and/or specified anatomical areas.

Adult Theater – A theater, concert hall, auditorium, or similar commercial establishment that regularly features, exhibits, or displays, as one (1) of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.

Escort – A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie, or to privately perform a striptease for another person.

Escort Agency – A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one (1) of its principal business purposes, for a fee, tip, or any other form of consideration.

Nude Model Studio – Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by any other persons who pay money or any other form of consideration. "Nude Model Studio" shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college, junior college, or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

2. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

3. Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

Nude or a State of Nudity – The appearance of a human anus, male genitals, or female genitals; or a state of dress that fails to opaquely cover a human anus, male genitals, or female genitals.

Semi-Nude – A state of dress in which clothing covers no more than the genitals, pubic region, or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual Encounter Center – A business or commercial enterprise that, as of one (1) of its principal business purposes, offers for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

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

Specified Sexual Activities – Includes any of the following:

1. Human genitals in a state of sexual stimulation, arousal, or tumescence; or

2. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or

3. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

4. Masturbation, actual or simulated; or

5. Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or

6. Erotic or lewd touching, fondling, or other contact with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation.

Special Use Permit - A permit issued to authorize development or land uses 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. The term includes permits previously referred to as conditional use permits or special exceptions

Shooting Range - An area designed and improved to encompass shooting stations or firing lines, target areas, berms and baffles, and other related components.

Shooting Range Facility - A public or private facility, including individual shooting ranges, safety fans or shotfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. This definition does not include incidental target practice areas on private property, turkey shoots, government facilities, or occasional “sighting-in” of firearms.

Shooting Station - A fixed point from which firearms or arrows are discharged.

Shopping Center – A group of three or more commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas.

Shotfall Zone - An area within which the shot or pellets contained in a shotgun shell typically fall.

Sign – Any device that is sufficiently visible to persons, not located on the lot, where such device is located to attract the attention of such persons or to communicate information to them.

Sign, Freestanding – A sign that is not directly attached to, erected on, or supported by a building or other structure having a principal function other than the support of such sign, but is instead attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign", is also a freestanding sign. If the message is removed from a structure originally designed and used as a freestanding sign, this structure shall still be considered a sign.

Sign, Nonconforming - A sign that, on the effective date of this Ordinance, does not conform to one (1) or more of the regulations set forth in this Ordinance, particularly Article 14 (Signs).

Sign, Off-Premise – A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located.

Sign, On-Premise – A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

Sign Permit – A permit issued by the Administrative Officer that authorizes the recipient to erect, move, enlarge, or alter a sign.

Sign, Temporary – A sign that is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than fifteen (15) days, unless stated for a different period of time in Article 14. If a sign display area is permanent but the message displayed is subject to periodic change, that sign shall be regarded as temporary.

Single-Family Detached (Site Built and Modular) – A residential use consisting of a single detached building containing one (1) dwelling unit and located on a lot containing no other dwelling units.

Site Plan, Major – A site plan for any development that does not qualify as a Minor Site Plan. Major Site Plans shall include, but are not limited to:

1. New non-residential or multifamily residential development exceeding the thresholds established for a Minor Site Plan.
2. Developments requiring the extension or construction of public streets or significant public infrastructure.
3. Developments involving multiple principal buildings or multiple phases of development.
4. Developments requiring a transportation impact analysis as determined by Section 3.9.3.23.

Major Site Plans shall be reviewed and approved by the Administrative Officer and Board of Commissioners in accordance with the procedures established in this Ordinance.

Site Plan, Minor – A site plan for development that is limited in scope and is not expected to create significant impacts on surrounding properties or public infrastructure. A Minor Site Plan shall include only the following:

1. Construction of a new principal nonresidential building containing 3,000 square feet or less of gross floor area on a single lot.
2. Additions to an existing principal nonresidential building totaling 2,000 square feet or less of gross floor area.
3. Development that does not require the creation or extension of a public street or an improvement to an existing street.
4. Development that does not require approval of a major subdivision.
5. Development that does not require the installation or extension of public water or sewer infrastructure beyond standard service connections.
6. Development that complies with all applicable requirements of this Ordinance and does not require a variance, special use permit, conditional zoning approval, or other discretionary approval.

Any site plan that does not meet all of the above criteria shall be considered a Major Site Plan.

Site Specific Development Plan - A plan of land development submitted to the Town Board of Commissioners for purposes of obtaining approval of a subdivision plat, or a Special Use Permit. In addition to the procedure established for Special Use Permits in the Town of Vass Zoning Ordinance, the Plan shall describe the type of use, and intensity of use, planned for the specific parcel or parcels of property.

Solar Farm – Solar farms are ground-mounted solar installations that occupy vast areas of open land.

Special Events – Circuses, fairs, carnivals, festivals, or other types of special events that run for longer than one (1) day but no longer than two (2) weeks, are intended to or likely to attract crowds, and are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Specimen or Rare Tree – Any healthy living tree that has a trunk diameter at breast height of eighteen (18) inches or more, or one (1) of the following tree species that has a trunk diameter at breast height of twelve (12) inches or more: Karpinus (Hornbeam), Ilex spp. (Holly), Magnolia spp., Ostrya (Hophornbeam), and Tsuga spp. (Hemlock). Rare Trees are healthy, living trees that have a trunk diameter at breast height of thirty-six (36) inches or more, or one (1) of the following tree species with a trunk diameter at breast height of eighteen (18) inches or more: Karpinus (Hornbeam), Ilex spp. (Holly), Magnolia spp., Ostrya (Hophornbeam), Tsuga spp. (Hemlock), or is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association, or provides unique habitat for any endangered or threatened wildlife species protected by Federal law, or represents an uncommon species, such as Long Leaf Pine, or Live Oak.

State Mandate - The minimum rules adopted by the Environmental Management Commission (EMC) for application to North Carolina's water supply watersheds, as required by the Water Supply Watershed Protection Act. The purpose of the Act, as stated in its opening paragraph is "…to protect and enhance the quality of the State's surface water supplies by establishing a cooperative program of water supply protection to be administered by local governments consistent with Statewide management requirements established by the Environmental Management Commission (EMC)."

Stream – A body of water flowing in a natural surface channel. Flow may be continuous or only during wet periods.

Street – A public street or a street which offers access to abutting properties. A dedicated and accepted public right-of-way for vehicular traffic.

Street, Alley - A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Street, Arterial – A major street in the Town's street system that serves as an avenue for the circulation of traffic onto, out, or around the Town and carries high volumes of traffic.
Arterial - A street connecting widely separated areas and designed to carry a large volume of traffic that may be fast, heavy, or both. Arterial streets are sometimes referred to as "major thoroughfares", "freeways", "expressways", etc., and are usually numbered State or Federal Highways.

Street, Collector – A street whose principal function is to carry traffic between minor, local, and sub-collector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred (100) dwelling units and is designed to be used or is used to carry more than eight hundred (800) trips per day. Collector streets may also be referred to as "connector" or "feeder" streets.

Street, Cul-de-sac – A street that terminates in a permanently terminated and a vehicular turn-around provided.

Street, Local – A street whose sole function is to provide access to abutting properties. It serves, or is designed to serve, at least ten (10) but not more than twenty-five (25) dwelling units, and is expected to, or does, handle between seventy-five (75) and two hundred (200) trips per day.

Street, Marginal Access – A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of through traffic on the arterial street, and so that the flow of traffic on the arterial street is not impeded by direct access from a large number of abutting properties. Marginal access streets may also be referred to as “service roads.”

Street, Minor – A street whose sole function is to provide access to abutting properties. It serves, or is designed to serve, not more than nine (9) dwelling units and is expected to, or does, handle up to seventy-five (75) trips per day. These streets are normally one block long or extended on a block-by-block basis and have no collector characteristics.

Street, Sub-Collector – A street whose principal function is to provide access to abutting properties but is also designed to be used, or is used, to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves, or is designed to serve, at least twenty-six (26) but not more than one hundred (100) dwelling units, and is expected to, or does, handle between two hundred (200) and eight hundred (800) trips per day.

Structure – Anything constructed or erected.

Subdivision - For the purposes of this ordinance, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this ordinance.

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

b) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

c) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors;

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

e) A gift lot which is defined as a parent making a one-time gift to his/her child of a parcel of land divided from the parent's property with legal access of at least 30 feet width to a public right-of-way and which otherwise meets the zoning lot requirements for the district the lot is located in.

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

Swimming Pool - An above-ground or in-ground water containment area designed for recreational use involving wading, swimming, and/or diving and including all structures, walks or patio areas of cement, stone, or wood at or above grade, built for, and used in conjunction with the swimming pool.

Telecommunications Tower – A structure whose principal function is to support one (1) or more antenna.

Tourist Home - A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

Townhouses - A group of four (4) or more attached dwellings that each have separate entrances to the outside and are entirely separated from each other by walls that meet North Carolina Building standards.

Toxic Substance - Any substance or combination of substances (including disease causing agents) that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their offspring or other adverse health effects.

Tract – A lot. The term is used interchangeably with the term lot, particularly in the context of subdivisions, where one (1) "tract" is subdivided into several "lots".

Transportation Impact Analysis – A Transportation Impact Analysis (TIA) is a specialized study that evaluates the effects of a development on surrounding traffic and transportation infrastructure. The TIA helps identify where the development may have a significant impact on safety, traffic and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIA can be used to evaluate whether the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow. Transportation impact analyses that include State roads

shall require review by the NCDOT. The Town may require that an independent third party be hired by the Town at the applicant's expense to perform a required Transportation Impact Analysis, or to review a Transportation Impact Analysis filed by an applicant. The third party shall be a professional engineer licensed in the State of North Carolina to prepare such analyses, and the third party's contract shall be administered solely by the Town. The Town shall determine the scope of services to be performed by a third party and receive a cost estimate from the third party for such services. Funds for third-party review shall be paid to the Town prior to site plan approval for multi-family and nonresidential developments and prior to preliminary plat approval for single-family developments. Funds for third-party review are not refundable if an applicant withdraws their application for the proposed development. Minimum contents requirements of a TIA are below:

1. The TIA shall propose geometric and/or traffic control improvements which will be required to prevent the traffic generated by the proposed development from causing any intersection or roadway approach within the study area to fall below an overall Level of Service (LOS) D, as defined by the latest edition of the Highway Capacity Manual (HCM).

2. For intersections projected to operate worse than LOS D for background (future without proposed development) conditions, the TIA shall propose geometric and/or traffic control improvements which will be required to minimize the increase in average overall intersection delay when traffic generated by the proposed development is at least 10% of the projected total a.m. or p.m. peak hour traffic at the intersection.

3. Stop-controlled minor street approaches to intersections may exceed LOS D provided the addition of development traffic at the intersection is not anticipated to warrant a traffic signal upon build-out and the resulting congestion does not block traffic movements at adjacent intersections.

4. At existing or proposed stop-controlled intersections, guidelines provided by the North Carolina Department of Transportation (NCDOT) shall be used in the evaluation of the need for and length of exclusive right and/or left turn lanes to support development traffic.

5. For any and all turning movements in the study area where the development is anticipated to add at least 10% to the existing a.m. or p.m. peak hour traffic volume, and the existing storage available within the turn bay(s) is shown to be exceeded by existing or projected traffic, the TIA shall propose improvements which may be required to mitigate the impact of development traffic.

Trailer - A portable enclosure designed to be towed by a vehicle and used for carrying objects, animals, or for temporary occupancy by traveling or vacationing individuals. Trailers are not to be defined as manufactured housing for zoning purposes.

Travel Trailer – 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. is designed for temporary use as sleeping quarters, but that does not satisfy one (1) or more of the definitional criteria of a manufactured home.

Tree Diameter – The width of a tree's trunk, measured four and one-half (4 ½) feet above the ground.

Two-Family Conversion – A two (2)-family residence resulting from the conversion of a single building containing at least two thousand (2,000) square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

Two-Family Residence – A residential use consisting of a building containing two (2) dwelling units. If two (2) dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one (1) building (See Duplex).

Undeveloped parcel (watershed) - Whichever parcel in a parcel pair is not the developed parcel.

Use – The activity or function that actually takes place on a lot.

Use, Accessory – See Section 9.2 (Accessory Uses).

Use, Principal – A use listed in the Table of Permitted Uses. The main use of land or buildings as opposed to an accessory use.

Variance – A grant of permission by the Zoning Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of this Ordinance, he/she could not otherwise legally do.

Vehicle Accommodation Area – That portion of a lot that is used by vehicles for access, circulation, parking, loading, and unloading. It comprises the total circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

Vehicle Storage Area – That portion of a vehicle accommodation area used in connection with automobile service stations and automobile repair shops and body shops as a place to park vehicles temporarily while they are waiting to be worked on or pending the pick-up of such vehicles by their owners.

Vested Right - The right to undertake and complete the development and use of property under the terms and conditions established by the local government.

Warehousing - The storage of goods and materials for a specific commercial

establishment or a group of establishments in a particular type of industry or commercial activity.

Water Dependent Structure – A publicly owned structure, the use of which reasonably requires access or proximity to or sitting within surface waters in order to fulfill its basic function. Water dependent structures are boat ramps, boathouses, a lake warden's office, docks, and bulkheads. Ancillary facilities such as restaurants, retail or wholesale outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

Water Supply Watershed or Protected Watershed - Land that drains to existing reservoirs that are public water supplies or potential reservoir sites or stream intakes that have been designated for protection. All such lands have been classified by the Environmental Management Commission (EMC) as WS-II, WS-III, or WS-IV watersheds and require protection in accordance with the State Mandate.

Wholesale Sales – On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

Wholesaling or Wholesale Trade - Business involved in the sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

Wind Energy Facility - A structure of any height that converts wind energy into electricity or other energy through the use of one or more turbines or other structures utilizing propeller blades.

Yard - A required open space on the same lot as the principal building, unoccupied and unobstructed (other than for vegetation) from the ground upward except as otherwise provided herein.

Yard, Front - A yard extending across the front of a lot measured from side lot line to side lot line, and lying between the abutting street right-of-way and the front building setback line. On a corner lot, the front lot line is the shorter of the lot lines which abut a street. **(Amended 10/13/2025)**

Yard, Rear - A yard extending across the rear of the lot measured from side lot line to side lot line, and lying between the rear property line and the rear building setback line.

Yard, Side - A yard extending along either side of a lot measured from front yard line to rear line, and lying between the side lot line and the side setback line.

Zoning Compliance Permit – A permit issued by the Administrative Officer that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance.

Zoning map amendment or rezoning - An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

APPENDICES

APPENDIX A - MINIMUM CONSTRUCTION STANDARDS FOR PRIVATE ROADS IN THE TOWN OF VASS

1-A Number of Lots or Dwelling Units Served

A. A private road shall serve no more than 15 lots (including the residual acreage) or dwelling units. Roads proposed to serve more than 15 lots or dwelling units (including existing private roads that are having additional lots or dwelling units over 15 added with access to the existing private road proposed), shall be built to public N.C. Department of Transportation road standards, including dedication as such.

B. Private roads serving a subdivision resulting in no more than three lots (including the residual acreage) or dwelling units are not required to be constructed to Town standards or to be inspected before recordation of the final plat; however, the right-of-way width requirement shall apply. The Town of Vass recommends that these roads be constructed to the standards for a Class C private road in order to provide adequate access, especially for emergency vehicles that require the clearances and turn areas as shown in the private road specifications.

C. Private roads serving a subdivision resulting in up to four lots (including the residual acreage) or dwelling units shall be constructed to Class C private road standards.

D. Private roads serving a subdivision resulting in five to eight lots (including the residual acreage) or dwelling units shall be constructed to Class B private road standards.

E. Private roads serving a subdivision resulting in nine to 15 lots (including the residual acreage) or dwelling units shall be constructed to Class A private road standards.

2-A Right-of Way and Travelway Widths

A. The right-of way width for any private road shall be 50 feet and indicated on all plans and plats where a private road is proposed for use. Bends in the right-of-way shall be at angles that will permit the construction of curves with a 125-foot minimum curve radius as required by Section 5-A.

B. Travelway widths for Class C private roads shall be eight feet. Class B private roads shall have a 12-foot wide travelway. Class A private roads shall have a 16-foot wide travelway.

Table 1-A: General Standards and Specifications for Private Roads

	Class of Private Road			
	A	B	C	
Total Number of Lots[1]/Dwelling Units Served by Road	9-12	5-8	4	1-3
Right-of-Way Width	50 Ft.	50 Ft.	50 Ft.	50 Ft.
Travelway Width	16 Ft.	12 Ft.	8 Ft.	No Standard
Professional Surveyor Certification of Road in Platted Right-of-Way Required	Yes	Yes	Yes	Yes[2]
Professional Engineer Certification of Road Construction Required	Yes	Yes	Yes	No

[1] Total number of lots served shall include the residual acreage of the tract being subdivided, where such residual acreage will be accessed by the private road.
[2] Required if road is to be constructed at time of final plat approval.

3-A Two-Way Traffic

A. Private roads shall provide for two-way traffic in order to prevent conflict of vehicles meeting head-on. Two-way traffic for Class C and Class B private roads can be accomplished by widening the travelway at prescribed locations to at least 16 feet to allow vehicles to pass or to pull over and stop while another vehicle passes.

B. Medians may be permitted between travel lanes when it is demonstrated that such design is desirable for the preservation of natural resources, or that excessive cut and fill would be required to construct a roadway to the standard width. Medians may be permitted only in accordance with the following:

1. Each lane shall contain a minimum of 14 feet of vertical and horizontal clearance.

2. Each lane shall contain a minimum travelway width of eight feet or one-half of the required width for the applicable road class, whichever is greater.

3. No lots shall access directly onto any divided portion of the road unless there is adequate cross-access provided through the median, or some other acceptable means of access and turnaround for emergency vehicles.

4. Both lanes shall be contained within a single right-of-way.

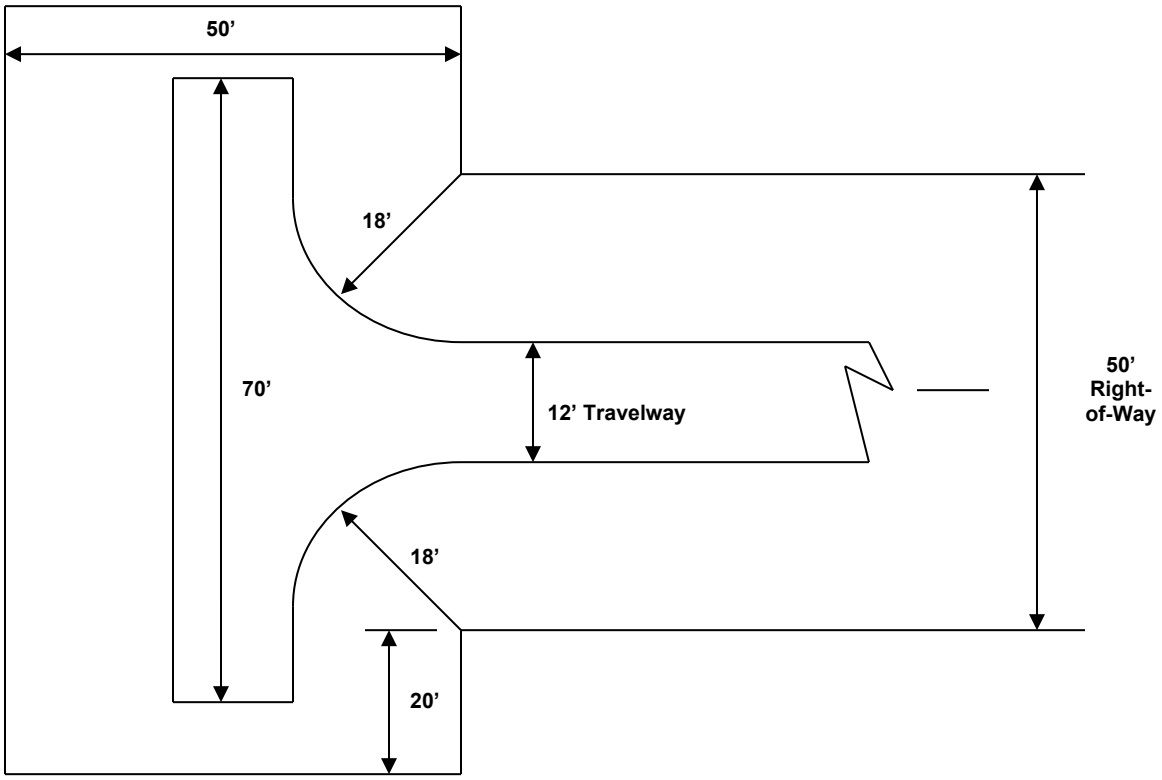
5. A standard travelway of required width for the road class shall be constructed where the private road intersects with another private or public road.

6. Signs indicating “One Way” shall be provided where the lanes diverge.

4-A Turnarounds

Vehicle turnaround areas shall be provided at the end of all dead-end roads. This can be accomplished by ending the road in a "T" turnaround or "L" turnaround. Where a cul-de-sac is used, a minimum turnaround travelway diameter of 60 feet shall be provided, located within a right-of-way with a diameter of 80 feet. A "T" turnaround shall conform to the dimensions in Figure 1-A. An "L" turnaround shall conform to the dimensions in Figure 2-A. The "T" and "L" turnaround designs are preferred. The location of the turnaround will depend on the arrangement of the lots in the subdivision. If the private road serves only one lot, the turnaround should be located near the building site. In a subdivision with several lots, the turnaround shall be at the end of the road and the necessary right-of-way provided.

Figure 1-A: "T" Turnaround Dimensions[1]



[1] Example shown is a Class B Private

Figure 2-A: "L" Turnaround Dimensions[1]



5-A Minimum and Maximum Curve Radius

A. New curves shall be constructed with a minimum centerline radius of 125 feet, but no greater than 150 feet. The right-of-way shall be designed with bends that will provide sufficient width to construct the road to this minimum radius. For example, a 90^{o} bend in a 50-foot wide right-of-way will not provide enough area to construct a road travelway of 16 feet in width. The right-of-way shall include sufficient width for the travelway and the necessary shoulders, ditches, and slopes.

B. A curve radius of less than 125 feet may be approved if all of the following conditions are met:

1. The road existed prior to the adoption of subdivision regulations or was approved as part of an earlier subdivision;

2. Reconstruction of the existing road to meet a 125-foot curve radius is not feasible due to the extent of earthwork that would be required and/or the inability to reconfigure the existing right-of-way location due to ownership or the location of existing structures, wells, or septic systems;

3. Standards pertaining to road width and grade will be met;

4. Documentation is received from the applicant's engineer that the proposed curve radius would provide for adequate vehicular access and circulation; and

5. Documentation is received from the applicable Town and/or County Emergency Services Department stating that the proposed curve radius would provide access for the largest emergency vehicle that would use the road.

C. Figure 3-A illustrates how a curve with a 125-foot centerline radius cannot be contained in a 90º bend of a 50-foot-wide right-of-way. Figure 4-A illustrates alternative bends that will contain a curve of the minimum centerline radius.

Figure 3-A: Example of Unacceptable Curve Radius

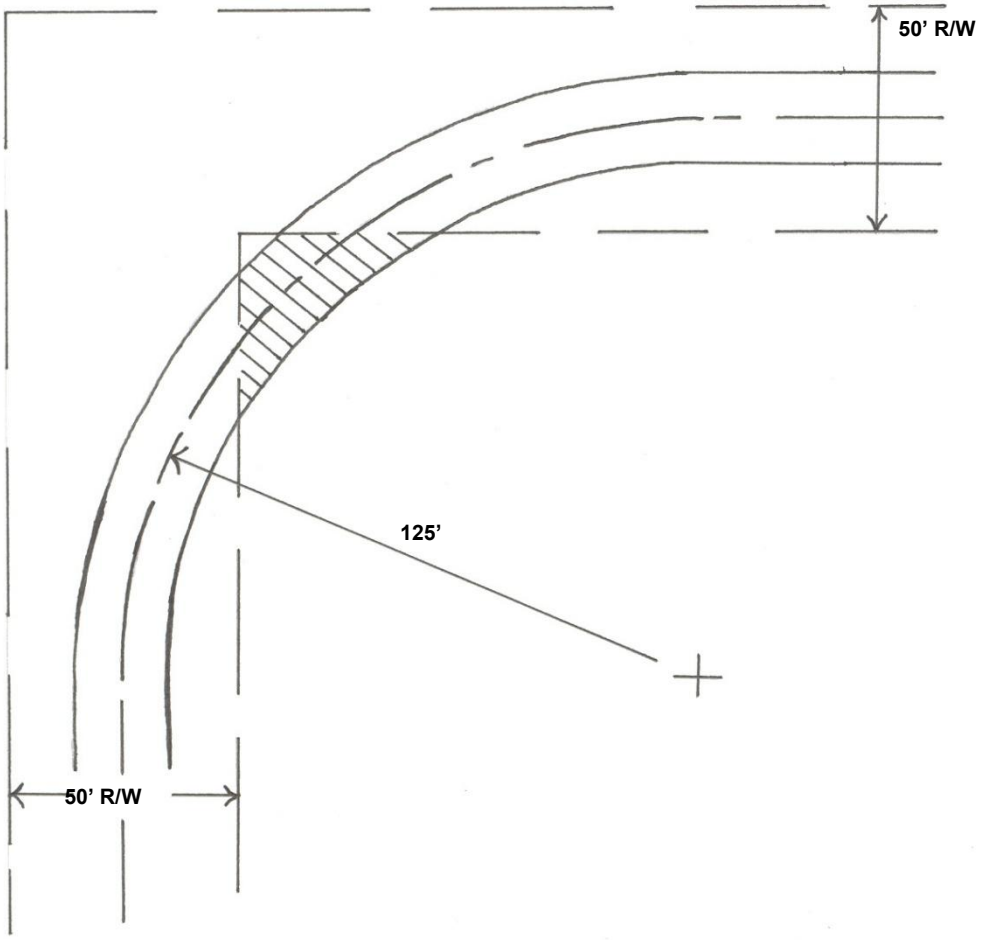
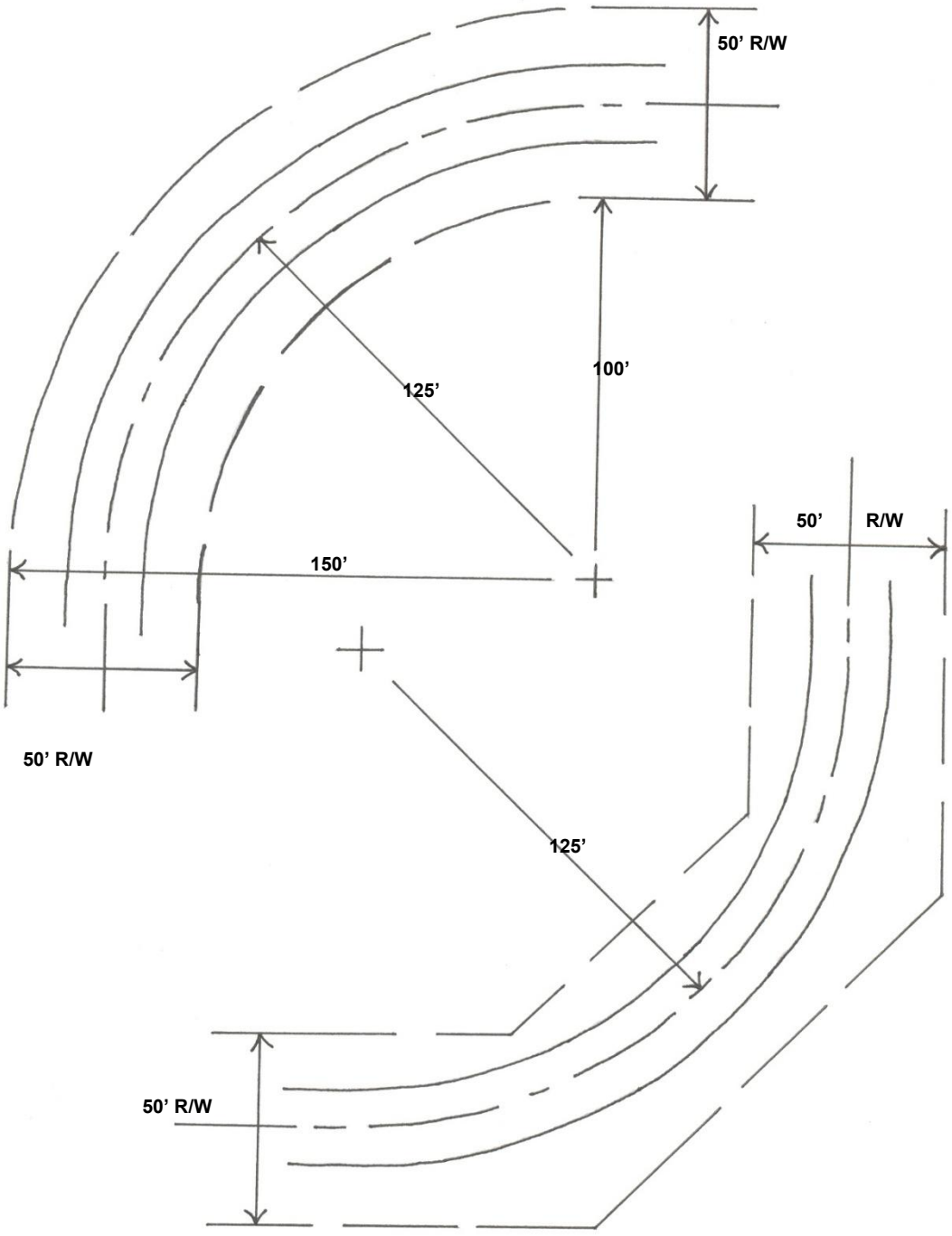


Figure 4-A: Examples of Acceptable Curve Radii



6-A Vertical Clearance

A minimum of 14 feet of vertical clearance shall be provided above the travelway to permit the passage of large vehicles under power lines and tree limbs.

7-A Construction Standards

7.1-A North Carolina Department of Transportation Driveway Permit

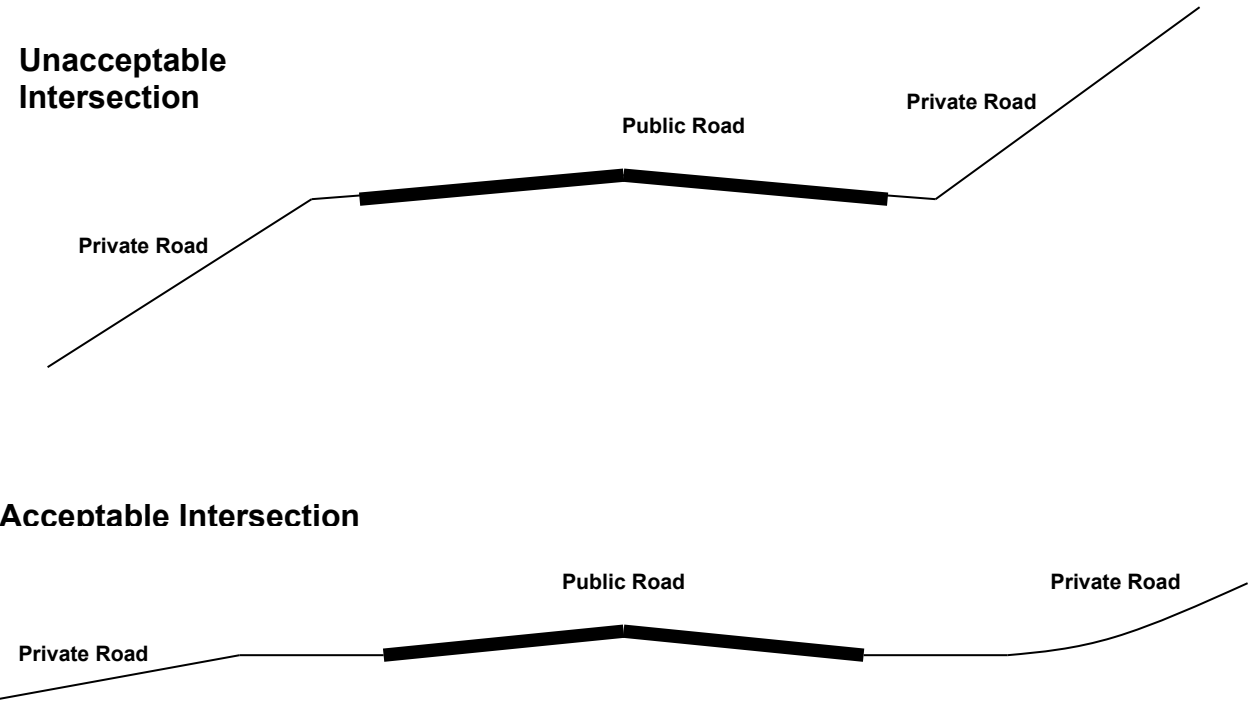
The property owner proposing to construct a private road is responsible for obtaining the required permit for access to the State maintained road. The permit may be obtained from the N.C. Department of Transportation District Engineer's Office in Aberdeen, North Carolina.

7.2-A Intersections with Public Roads

A. The intersection of the private road with the existing public road shall permit a safe entrance and exit. Adequate sight distances along the public road shall be provided by choosing a good location for the right-of-way and clearing sight triangles when building the road.

B. The intersection of a private road with a public road shall provide an adequate place for cars to stop before entering the public road. Figure 5-A gives an example of this principle.

Figure 5-A: Unacceptable/Acceptable Intersections



C. The private road must flare at the intersection with the public road in order to permit a vehicle to enter the private road when another vehicle is waiting on the private road. The dimensions of the required flare are shown in Figures 7-A, 8-A, and 9-A.

7.3-A Travelway Design

A. Travelways shall be surfaced and compacted with a material acceptable to the Town of Vass to the required width of the particular class of road. A crown shall be built into the travelway so that water will drain from the road surface into the side ditches on both sides of the road. Figures 7-A, 8-A, and 9-A indicate this requirement. The crown shall not be so great as to cause vehicles to slide off the travelway when ice or snow is on the road.

B. In some situations, it may be desirable not to crown the road but to have the travelway sloped to a single ditch as shown in Figure 6-A. This is applicable in four situations:

1. where it is necessary to cut down on the length of a ditch in order to reduce the erosion potential by decreasing the volume of runoff; or

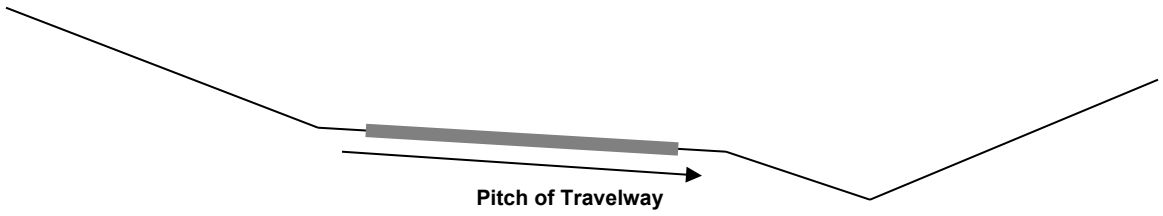
2. where it is difficult to construct ditches due to rock or other ground conditions; or

3. to provide for super-elevation; or

4. in curves.

Such a single slope shall always drain toward the inside of a curve. The crown slope of the road and shoulder should be approximately one-half to one inch per foot.

Figure 6-A: Travelway Pitch for Private Roads with Single Drainage Ditch



7.4-A Travelway Surface Materials

A. Aggregate Base Course (commonly called “crusher run”) shall be used as travelway surface materials. Soil type base materials will be acceptable under the following conditions:

1. The material originates from a quarry approved by the North Carolina Department of Transportation, and

2. The grade of the road is less than 6%.

B. All private roads where grades are in excess of 6% shall be constructed with paved, all-weather surfaces consisting of four inches of base material (crusher run) and one and one-half inches of 1-2 asphalt, or tar and gravel surface treatment consisting of a minimum of six inches of base material (crusher run) covered with alternating layers of tar and pea-size gravel, asphalt, or concrete. Road edges shall be suitably protected to prevent raveling and shifting of the base.

7.5-A Grade

A. The grade of the road shall not exceed 12% because of the difficulty of operating vehicles on such a steep road and the high potential for erosion of the travelway and side ditches. Where possible, the road shall be constructed along the contour of the land to avoid steep grades.

B. In exceptional circumstances a variance from this requirement may be granted for a private road with a grade greater than 12% by the Town Board, as recommended by the Planning Board. Circumstances where a variance will be considered are:

1. the N.C. Department of Environment and Natural Resources (NCDENR) indicates in writing that erosion control measures can be implemented to minimize the erosion potential of the road during and after construction; and

2. there is no other reasonable access or location for the road; and/or

3. relocating the road would create other, more serious problems with drainage, stabilization, or environmental impact; and/or

4. the length of the segment with a grade greater then 12% is no longer than 100 feet.

7.6-A Fill Material

Where filling is necessary to raise the roadbed, cross watercourses or fill stump holes, it shall be done with suitable material that is free of roots or other organic matter. The fill shall be firmly compacted to reduce settlement that will cause ruts or holes in the finished road.

7.7-A Drainage

A. Ditches shall be constructed to provide drainage from the road and adjacent areas. The ditches shall be built with sufficient depth and width to carry the expected volume of water. The side slopes shall be graded so that they can be stabilized and to prevent vehicles from becoming stuck if they slide into the ditch.

B. Where the road crosses streams or minor watercourses, culverts shall be installed to prevent ponding and washouts of the road for the five year design storm. On streams where it is not economical to install a large culvert of the required size, the Subdivision Administrator may allow the installation of a smaller culvert if engineering equivalent provisions are made to protect the road surface and fill slopes from erosion when runoff tops the road. The applicant's engineer shall certify that a smaller culvert will meet the requirements of this provision.

7.8-A Permanent Vegetation

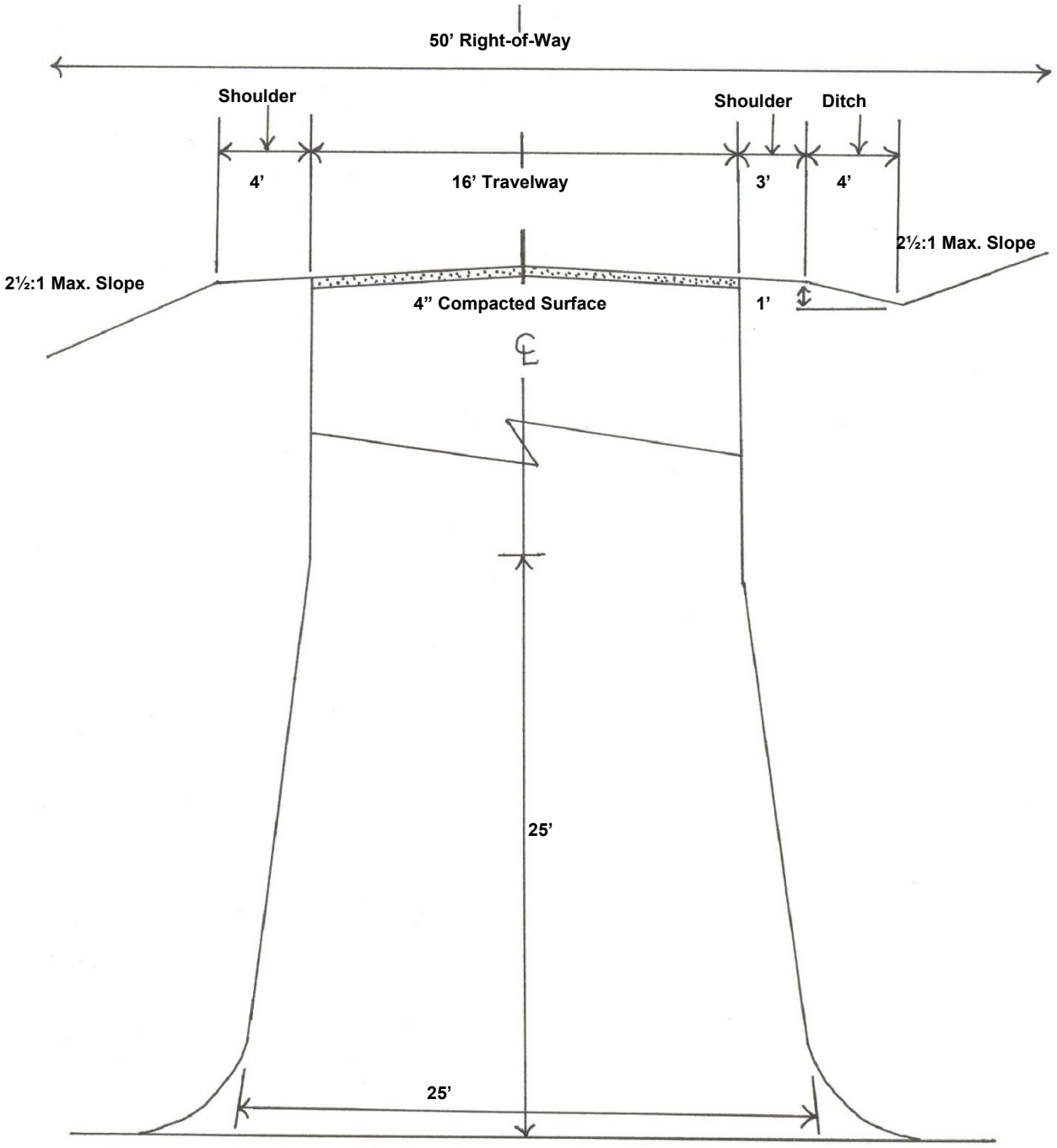
A. All areas disturbed by the construction of the road, including the shoulders, ditch, banks, cut-and-fill slopes, and any borrow areas, shall be seeded in permanent vegetation to stabilize the soil and prevent erosion. Seeding shall be done immediately after grading is completed and before the final inspection by the Subdivision Administrator.

B. The disturbed area shall be smoothed and lightly harrowed to break up the soil and prepare a good seedbed. The materials listed in Table 2-A are recommended per 1,000 square feet of disturbed area. Other types of permanent vegetation may be substituted as long as they provide adequate cover to prevent erosion.

Table 2-A: Seed and Mulch Required Per 1,000 Square Feet of Disturbed Area

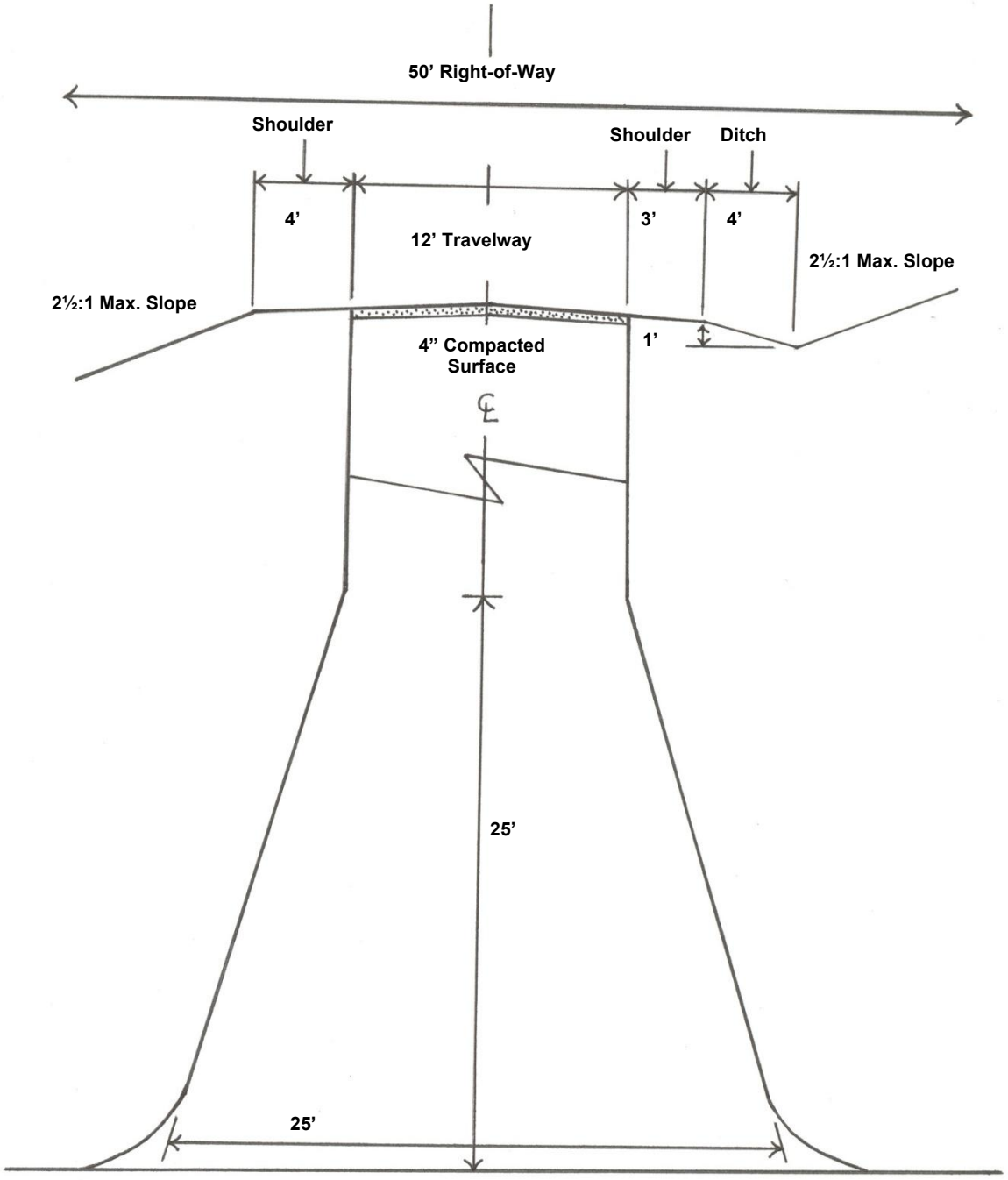
Recommended Materials	Amount in Pounds (lbs.)
Fescue Grass Seed	**1.4**
German or Brown-top Millet (To Provide Temporary Cover Until the Grass Becomes Established)	**0.4**
Lime	**90**
10-10-10 Fertilizer	**23**
Bales of Straw for Mulch (Use Enough to Cover 75% of the Ground)	**(2) 40**

Figure 7-A: Class A Private Road Construction Standards Cross Section



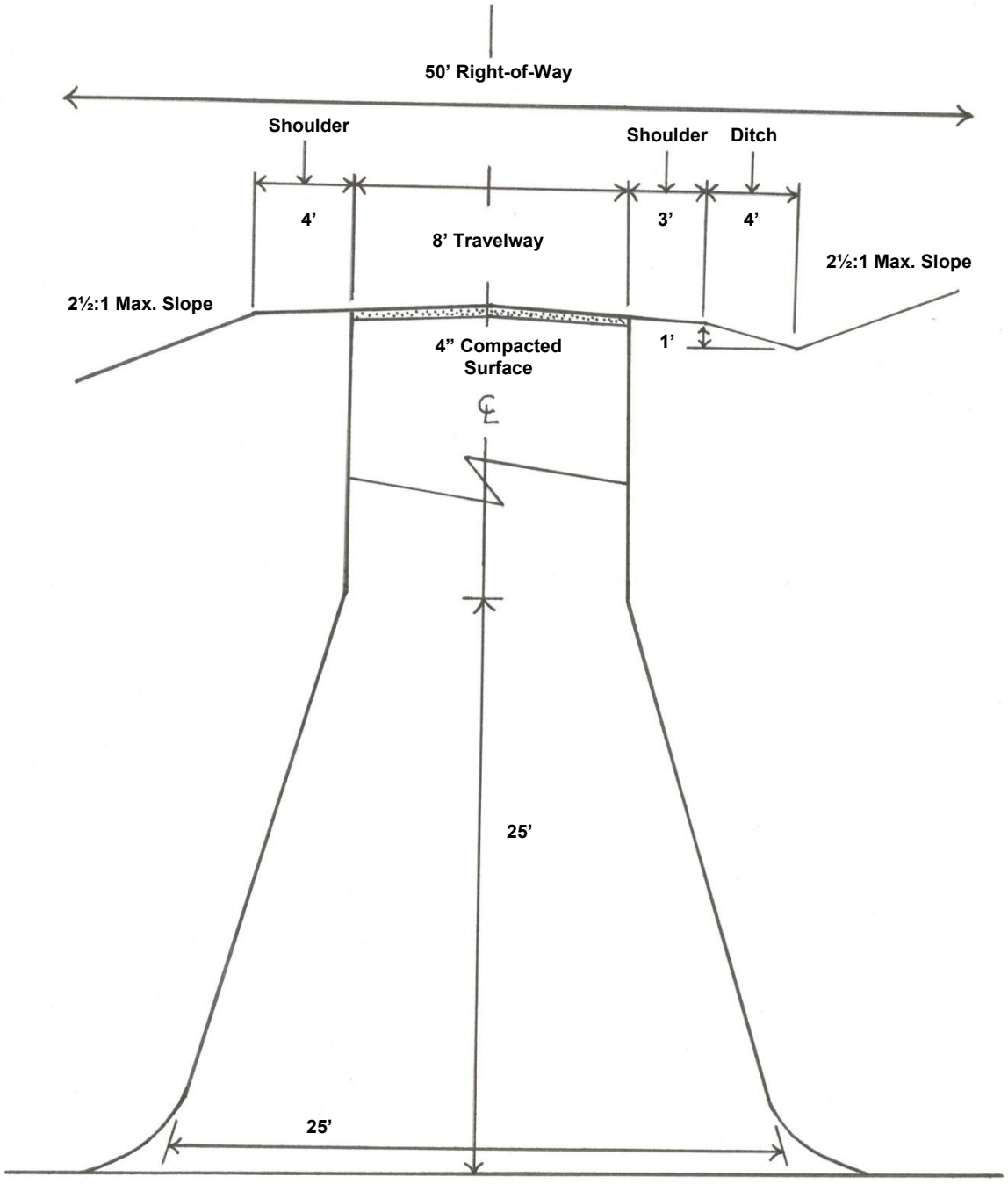
Flare At Intersection with Public Road

Figure 8-A: Class B Private Road Construction Standards Cross Section



Flare At Intersection with Public Road

Figure 9-A: Class C Private Road Construction Standards Cross Section



Flare At Intersection with Public Road

7.9-A Certification of Construction

A. Before a final plat of subdivision where any lot or dwelling unit will be served by a private road can be recorded, the private road must be built and approved. A security instrument posted with the Town may be allowed in subdivisions served by a private road.

B. For any private road, the location of the travelway shall be certified to be within the platted private road right-of-way by a North Carolina licensed professional land surveyor. Private road construction where four or more lots are being created shall be inspected, and the construction certified in writing to the Subdivision Administrator, by the property owner's engineer. The following shall be inspected and certified by the property owner's engineer:

1. The proper material has been used in the travelway and it is built to the required width and thickness;

2. The shoulders are the correct width and the typical cross section is in place;

3. The road is on the proper grade;

4. Ditches are in place where necessary to provide adequate drainage, in accordance with sound engineering practice;

5. Needed storm pipes of proper size, materials, and construction are in place and energy dissipaters installed, in accordance with sound engineering practices;

6. All disturbed areas are properly stabilized;

7. An adequate turnaround is in place at the end of the road;

8. Required vertical and horizontal clearance is provided; and

9. Sight distance and construction at the intersection with a public road has been approved by N.C. Department of Transportation.

The road shall be inspected during construction so that any changes or necessary improvements necessary to ensure approval can be made before the stone is placed and the shoulders and ditches are seeded and mulched.

C. The Subdivision Administrator shall inspect the road prior to release of the final plat for recordation to ensure that the street sign is in place and to make an overall visual inspection of the road.

8-A Private Road Maintenance

A. Maintenance of the private road shall be provided by the lot owners that are served by the private road or an established homeowners association. A Road Maintenance Agreement and Declaration between the lot owners is required to insure that the cost is shared equally and a mechanism for maintenance is set up where a homeowners association is not created. The responsibility for maintenance is the property owners,' and neither the State nor the Town will maintain the road.

B. Regular attention shall be given to the following items in order to assure that the road will remain in good condition:

1. Vegetation

The vegetation should be mowed, limed, and fertilized as needed. Areas that erode or where seeding is unsuccessful should be reseeded.

2. Drainage

Culverts shall be kept clear of trash and other obstructions that could prevent or reduce the culvert's function. If culverts are not kept clear, it will cause runoff to flow over the road and may cause flooding upstream. Ditch banks and bottoms shall be protected from erosion by maintaining good vegetation.

3. Travelway

The travelway shall be maintained by grading the surface material to fill any potholes that develop and to evenly spread the surface material where the soil has been uncovered because of erosion.

4. Road Name and Sign

The sign shall be kept visible and legible so that visitors and emergency personnel can easily locate the road and shall be as approved by the Subdivision Administrator.

8.1-A Road Maintenance Agreement Requirements

A. The property owner shall have an instrument recorded contemporaneously with the final plat substantially in the form of the Town's standard Road Maintenance Agreement entitled "Declaration of Restrictions and Provisions for Private Road Maintenance," guaranteeing the following:

1. right of access to any private road in the subdivision by all lots served by the road and by law enforcement and emergency vehicles;

2. right of access for the proposed private road to a State or municipally maintained road by way of direct access or other private roads;

3. perpetual maintenance of any private road serving the subdivision at the standards set for approval; and

4. provide record notice of the probability that future development dependent on the private road for access will require upgrading of the road to a higher private road standard or public dedication and upgrading of the road to N.C. Department of Transportation standards. The Road Maintenance Agreement shall include a provision that if the road is dedicated for public use at a later date, then the lot boundaries will be revised to extend only to the edge of the right-of-way.

B. The instrument shall also note acceptance by the owner(s) of all liability related to the use of the road, and agreement to hold both the Town, County, and State harmless from such liability, and acknowledge that some public services may not be provided due to the private nature of the road. The guarantees of right of access and maintenance of the subdivision roads shall run with the land and shall be disclosed to any prospective purchaser of land in the subdivision as provided by G.S. 136-102.6.

Appendix B - SAMPLE ROAD MAINTENANCE AGREEMENT FORM

The Moore County Register of Deeds requires that the 1st Page have a 3 inch top margin and ½ inch margins on sides and bottom of the page. Subsequent pages must all have ½ inch margins, i.e. top, bottom, and sides.

NORTH CAROLINA

MOORE COUNTY

TOWN OF VASS

DECLARATION OF RESTRICTIONS AND PROVISIONS FOR PRIVATE ROAD MAINTENANCE

THIS DECLARATION, made this _____ day of _____, 20_____, by _____, hereinafter called Declarants, having a mailing address of _____.

WITNESSETH:

WHEREAS, Declarants own in fee simple the real property described in Article 1 below; and

WHEREAS, the said property will have access to _____ (SR #_____) via the private roads shown on the plat hereinafter referred to, said private roads being known as _____ (hereinafter referred to as private road); and

WHEREAS, Declarants by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide all owners of any portion of said property owned by Declarants described below perpetual ingress, egress and regress to State or Town roads; and

WHEREAS, Declarants by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide for maintenance of said private road until such time as the said Private road is accepted by the State of North Carolina or the Town of Vass for maintenance;

NOW, THEREFORE, Declarants agree for themselves and with any and all persons, firms or corporations hereafter acquiring any of the property described in Article 1 below, that the same shall be subject to the following restrictions, conditions, and covenants relating to the use and occupancy, which restrictions, conditions, and covenants shall run with the said property and insure to the benefit of and be binding upon the heirs, successors and assigns of Declarants and other acquiring parties and persons.

Article 1. The real property which is, and shall be, held, transferred, sold and conveyed subject to the protective and restrictive covenants set forth in the various Articles of this declaration is located within the Town of Vass planning jurisdiction, _____ Township, Moore County, North Carolina, and is more particularly described as follows: (insert deed description or plat reference)

Article 2. Declarants hereby grant unto themselves and the future record owners of the aforesaid property adjoining and abutting the private road as shown on the aforesaid recorded plat(s) and as said private road may be extended into the aforesaid property, perpetual ingress, egress and regress over, on and under the said private road including the use of the road for the purposes of installation and maintenance of uti1ities.

TO HAVE AND TO HOLD the above-described easement as an appurtenance to all of the property, which easement shall run with said lands forever.

Article 3. The road shall be maintained to Class ____ (A, B, or C) private road standards as prescribed by the Town of Vass now and as the same may be revised from time

to time.

For so long as Dec1arants shall be willing and able to serve, they shall be responsib1e for:

1. Determining what maintenance is necessary in order to maintain _____.

2. Contracting repairs and notifying the owners of Lot _____ of their respective assessments at least annually; and

3. Estimating the costs of maintenance in advance and depositing the funds received in a separate account, the records of which shall be available for inspection by any owner subject to assessment.

If at any time Declarants are unable or unwilling to provide for the maintenance of said road, the owners of the subdivided lots as shown on the recorded plats herein before referred to shall be responsible for maintenance as herein provided. Any owner of a subdivided lot within said property served by said road or the owner of any interest therein, shall have the right to enforce the maintenance standard by sending by registered or certified mail, return receipt requested, written notice of all proposed maintenance and of the time and place of a meeting of the said record owners (said meeting to take place no less than 10 days following the mailing of such notice) to all such record owners at their last known addresses as shown on the Moore County Tax Records.

At such owners' meeting all maintenance shall be approved by a majority of the votes cast (each owner having one vote for each subdivided lot owner and 3 for each dwelling unit on a lot).

Every owner of any of the aforesaid property using said road shall bear on a pro-rata basis the cost of maintaining said private road, this being each owner's pro-rata share for grading costs, gravel, or rock hauled in to fill ruts, holes, and washed-out sections and necessary replacement of or additional drainage culverts.

Each owner's pro-rata share of the maintenance costs of said private road shall be the total cost of maintenance multiplied by said owner's votes and divided by the total of all the owners' votes within the property. Each owner's pro-rata share of the maintenance cost of said private road shall be due and owing to whichever other owner initiated the maintenance enforcement within 10 days of the said owners' meeting. If not paid by that time, said initiating owner may file suit for the same on behalf of all of the owners.

Notwithstanding the vote at the owners' meeting, nothing in this Declaration of Restrictions shall be construed as denying any owner the right to see that the said road is maintained to Class ____ (A, B, or C) private road standards, and any owner may require that the maintenance requirements be submitted to binding arbitration under the rules and regulations of the American Arbitration Association (as governed by the Uniform Arbitration Act

of North Carolina, North Carolina General Statutes Section 1.567.1 et seq., as it may be from time to time amended) by notice mailed to all said record owners at their last known addresses by registered or certified mail, return receipt requested, by 5:00 p.m. on the second working day following the owners' meeting, unless such arbitration notice is sent, the vote of the majority of the owners shall be conclusive as to what maintenance is mandated by this Declaration of Restrictions.

Article 4. The lots served by the private road(s) located within said property may be restricted or prohibited from further subdivision by the Town of Vass Subdivision Regulations. The Town of Vass Subdivision Administrator shall be consulted prior to the proposed division of any lot served by the private road(s) located within said property.

Article 5. The private road located within said property may be dedicated to the public at the election of a majority vote of the owners under the same procedure used in Article 3 for the maintenance of said road. In that event, the owners and their successors in title and interest to any of the property described herein will remain responsible for road maintenance until the road is taken over for maintenance by the North Carolina Department of Transportation, the Town of Vass, or other governmental body.

It is probable that future development of the property described in Article 1 will require upgrading of the private road providing access to the property described in Article 1 to either a higher private road standard or to North Carolina Department of Transportation standards. In the event that the Town of Vass or any other governmental body, as a condition to the approval of any further subdivision of the property described in Article 1, may require said private road to be upgraded above a Class _____ (A, B, or C) private road standard or publicly dedicated and constructed to Department of Transportation standards, then in that event, Declarants and all persons taking title to the property described in Article 1 shall be responsible for maintenance and the costs of maintenance of the entire road system to the new standard on the point system described in Article 3. Provided, however, that the initial cost of construction the road or any portion of the road to a higher private road standard or to Department of Transportation standards shall be borne solely by the owners of the portion of said property, the subdivision of which requires that the road or any portion of it be upgraded. The cost of construction of the road or any portion of it to a higher private road standard or to Department of Transportation Standards shall be shared by the owners responsible for the upgrading according to the system described in Article 3. In the event public dedication of the said private road or any extension of the private road or portions thereof is required by the Town of Vass, all persons taking title to the aforesaid property from and through Declarants shall dedicate to the public that portion of the road required to be dedicated.

Article 6. In the event that extensions are made to the said private road within the aforesaid property, or to other property, or for utility access to other property, the costs of maintaining the entire road system shall be borne by all the record owners of any property served by the entire road system as set forth in Article 3; provided, however, that the initial costs of constructing any extension of the road shall be borne solely by the owners of the portion of said property abutting said road extension as they may agree, or if they do not agree, then among them by the same point system as set out above.

Article 7. This agreement shall remain in full force and effect as to said road or any portion thereof until such time as said road or any portion thereof shall be taken over by the North Carolina Department of Transportation or the Town of Vass for maintenance purposes, and any portion of said road not so taken over by the North Carolina Department of Transportation or the Town of Vass shall remain subject to this Agreement. Declarants accept all liability related to the use and maintenance of said road and agree to hold the Town of Vass, Moore County and the State of North Caro1ina harmless from such liability. Declarants acknowledge that some public services may not be provided to the lots abutting the said private road due to the private nature of said road.

Article 8. This agreement is to govern the maintenance of said road when subject to ordinary use. If any owner liable under this agreement shall cause any extraordinary wear and tear on said road by building, or other heavy use, said owner shall be responsible to pay such extraordinary costs of maintenance as is caused by said use. If the responsibility for such extraordinary costs of maintenance is not agreed between the owners at an owners' meeting called under the provisions of Article 3 above, the responsibility for said cost shall be subject to binding arbitration as set out in Article 3 above.

Article 9. This agreement shall run with and be appurtenant to the land and shall be binding upon the heirs, successors, and assigns of each record owner of the aforesaid property. When used in this agreement, the singular shall include the plural, the masculine shall include the feminine and the neuter, and vice versa, as the meaning may require.

IN WITNESS WHEREOF, Declarants have caused this instrument to be signed and sealed on the day and year first written above.

_____ (SEAL)

STATE OF NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of said State and County, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Restrictions and Provisions for Private Road Maintenance.

Witness my hand and notarial seal, this _____ day of _____, 20____.

_____
Notary Public

My Commission Expires: _____

STATE OF NORTH CAROLINA COUNTY OF MOORE

I, _____, a Notary Public of said State and County, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Restrictions and Provisions for Private Road Maintenance.

Witness my hand and notarial seal this the _____ day of _____, 20____.

_____
Notary Public

My Commission Expires: _____