

# DRAFT JUNE 8TH VERSION

AN ORDINANCE PROVIDING FOR THE ZONING  
OF  
THE TOWN OF RHODHISS



Adopted **DATE**

**CHAPTER 23  
ZONING ORDINANCE**

**ARTICLE I  
AUTHORITY AND ENACTMENT**

In pursuance of authority conferred by Chapter 160D of the General Statutes of North Carolina, and for the purpose of promoting the public health, safety, morals and general welfare; promoting the orderly development of the Town of Rhodhiss; lessening congestion in the roads and streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; providing adequate provisions for transportation, water, sewerage, schools, parks and other public requirements, all in accordance with a well-considered, comprehensive plan, the Board of Commissioners of the Town of Rhodhiss does hereby enact the following Ordinance providing for the zoning of the Town of Rhodhiss, North Carolina.

NOW THEREFORE, the Board of Commissioners of the Town of Rhodhiss, North Carolina, does ordain as follows:

**ARTICLE II  
SHORT TITLE**

This ordinance shall be known as "The Zoning Ordinance of the Town of Rhodhiss, North Carolina," and the map referred to which is identified by the title "Official Zoning Map, Town of Rhodhiss, North Carolina," shall be known as the "Zoning Map". The "Zoning Map" also refers to a "Zoning Atlas" which contains additional maps that illustrate certain sections of the Town at a different scale.

**ARTICLE III  
JURISDICTION**

**23-1001. Territorial Application**

The provisions of this Ordinance shall be applicable within the corporate limits of the Town of Rhodhiss as adopted under General Statute 160D-200, and the land designated by the official zoning map.

**ARTICLE IV  
DEFINITIONS**

For the purpose of interpreting this ordinance, certain words or terms are herein defined. Unless otherwise expressly stated, the following words shall, for the purpose of this ordinance, have the meaning herein indicated.

**23.1002. Interpretation of Commonly Used Terms and Words**

**23-1002.1.** Words used in the present tense include the future tense.

- 23-1002.2.** 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.
- 23-1002.3.** The word "person" includes a firm, association, corporation, trust and company, as well as individual.
- 23-1002.4.** The words "used for" shall include the meaning "designed for".
- 23-1002.5.** The word "structure" shall include the word "building".
- 23-1002.6.** The word "lot" shall include the words "plot", "parcel", or "tract".
- 23-1002.7.** The word "shall" is always mandatory and not merely direction.

### **23-1003. Definitions of Specific Terms and Words**

*Accessory Building.* A building subordinate to the principal building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.

*Accessory Use.* A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

*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 this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

*Adult Uses.* Any structure or use of land which meets the definition of an adult establishment as outlined in G.S.14-202.10.

*Alley.* A public way that affords only a secondary means of access to abutting property and not intended for general traffic circulation.

*Basement.* See Cellar.

*Buffer Strip.* A buffer strip shall consist of a planted strip at least fifteen (15) feet in width, composed of evergreen trees spaced not more than ten (10) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart, Buffers located on property zoned for industrial uses shall be twenty-five (25) feet in width.

Each application for a zoning permit or certificate of occupancy shall include for those use districts where a buffer is required, information as to the location and type of buffer to be erected. In some instances, a fence or wall may be required by the Planning Board. Once the buffer strip is erected, it shall be properly maintained.

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

*Building. Principal,* A building in which is conducted the principal use of the lot on which said building is situated.

*Building Height.* The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of

the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof,

*Building Setback Line.* A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, gutters and similar fixtures and the lot line or right of way of the street, whichever is nearer to the building, when measured perpendicularly thereto.

*Business Sign.* A sign which directs attention to goods, commodities, products, services, or entertainment sold or offered upon the premises where the sign is located.

*Campground.* An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character. In no instance shall a campground be used for permanent residency.

*Cellar.* A story having more than one-half (1/2) of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement.

*Conditional zoning.* A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

*Condominium.* A system of separate ownership of individual units in a multiple-unit building.

*Customary Home Occupation.* Any use conducted entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display, no outside storage, no stock-in-trade nor commodity sold on the premises; provided further that no person not a resident on the premises is employed in connection with the activity and the activity is not commercial in nature. Short-term rentals (defined below) shall not be considered a customary home occupation. Such occupation shall be carried on solely within the main dwelling and shall not occupy more than twenty-five percent (25%) of the total floor space of the dwelling.

*Decorative Structure.* A structure designed and built for decorative or landscaping purposes and including, but not limited to, gazebos, arbors, bridges, etc. The structure is not to be used for storage or any other non-decorative purpose.

*Determination.* A written, final, and binding order, requirement, or determination regarding an administrative decision.

*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 on that property.

*Development.* Unless the context clearly indicates otherwise, the term means 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.

*Development Approval.* An administrative or quasi-judicial approval made pursuant to this Chapter 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 this Chapter, or a local act or charter that regulates land use or development.

*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 this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

*Dwelling Unit.* A building, or portion thereof, providing complete and permanent living facilities for one (1) family. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, or other structure designed for transient residence.

*Dwelling, Single-Family.* A building designed for and containing one (1) dwelling unit.

*Dwelling, Two Family.* A building designed for and containing two (2) dwelling units.

*Dwelling, Multi-Family.* A building designed for and containing three (3) or more dwelling units.

*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 this Chapter.

*Fence.* A structure or partition, erected for the purpose of enclosing a piece of land, or to divide a piece of land into distinct portions, or to separate two contiguous estates.

*Grade.* An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

*Gross Floor Area.* The total area of all buildings including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.

*Legislative Decision.* The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of this Ordinance.

*Legislative Hearing.* A hearing to solicit public comment on a proposed legislative decision.

*Lot.* A parcel of land occupied or capable of being occupied by building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

*Lot, Corner.* A lot which occupies the interior angle at the intersection of two (2) street line which make an angle of more than forty-five (45) degrees and less than one hundred and thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance permit.

*Lot Coverage.* The percentage of a lot which may be covered with buildings or structures, excluding walks, drives, and other similar uses and recreational facilities which are accessory to a permitted use.

*Lot Depth.* The mean horizontal distance between the front and rear lot lines.

*Lot of Record.* A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of the governing county, or a lot described by metes and bounds, the description of which has been so recorded.

*Lot Width.* The distance between side lot lines measured at the building setback line.

*Manufactured Home.* A dwelling unit constructed and designed for transportation its own chassis and placement on a temporary or semi-permanent foundation having a measurement of forty (40) feet or more in length and eight (8) feet or more in width. It shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. This term shall also include the term "Mobile Home".

*Manufactured or Mobile Home Park.* Any place or tract of land maintained, offered or used for the parking of two (2) or more manufactured homes for rental or lease and used or intended to be used for living or sleeping quarters.

*Modular Home.* A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code, as amended, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home shall consist of two or more sections transported to the site on a truck and erected or joined together on the site.

*Non-conforming.* Any structure, parcel and/or use of land that does not conform to the use, size, dimensional or structural requirements as defined in this ordinance.

*Open Space.* Any front, side or rear yards, courts, usable open space provided about a building in order to meet the requirements of this code.

*Open Storage.* Unroofed storage area, whether fenced or not, of vehicles, goods, or raw material.

*Parking Lot.* Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operation condition whether for a fee or as a service.

*Parking Space.* A storage space for one (1) automobile, plus the necessary access space.

*Planned Residential Unit Development (PUD) or Cluster Subdivision.* A form of development characterized by a unified site design for a number of residential housing units, supportive small scale services, and common open space. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. Such development shall be based on a plan, which allows flexibility. Planning Unit Development can also mean multiple buildings on one lot as a commercial or manufacturing use. Cluster subdivision allows the clustering of homes to protect open space and reduce impact.

*Property Owners Association (POA).* A non-profit corporation or group formed by the owners of a Planned Residential Unit Development (PUD) to own, repair, maintain and manage the common areas within the PUD; to enforce the terms and conditions governing the PUD; and to otherwise enhance and promote the use and enjoyment of the common areas of the PUD.

*Sewerage System, Public.* A system serving two (2) or more connections. Plans for public and community sewer systems must be approved by the appropriate state and local agencies.

*Sewerage System, Individual.* An individual septic tank system of sewage disposal. Individual sewage disposal systems must be installed and maintained in accordance with the Division of Health Services, North Carolina Department of Human Services "Rules and Regulations Governing the Disposal of Sewage from any Residence, Place of Business or Place of Public Assembly in North Carolina" and the regulations of the County Board of Health.

*Short Term Rentals.* Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

*Signs.* Any form of publicity, visible from any public highway directing attention to an individual activity, business, service, commodity or product. The publicity can be conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks, or trade names or other pictorial matter designed to convey such information. The information can be displayed by means of bills, panels, posters, paints, or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings, or other structures or supports.

*Sign Area.* Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one (1) side of a double-faced sign shall be considered.

*Sign, On-Site.* 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 where such sign is located.

*Sign, Off-Site.* 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 site where the sign is located.

*Site plan.* A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-

specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision, with is a legislative action.

*Solar Collector.* Any object that collects and uses solar radiation for a useful purpose, including but not limited to windows, walls, roofs, and collectors.

*Story.* That portion of a building comprised between a floor and the floor next above. The first floor of a two (2) or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.

*Street.* A dedicated and accepted public right-of-way for vehicular traffic that affords the principal means of access abutting properties.

*Structure.* Any building constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.

*Structural Alterations.* Any change on the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any structural change in the roof, or dimensions or the rooms therein.

*Subdivision.* All divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions 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 an existing streets; but the following shall not be included within this definition not be subject to the regulations authorized by this Ordinance:

- a) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of these regulations; and
- b) The division of land into parcels of ten (10) acres or more where no new street right-of-way dedication is involved; and
- c) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- d) The division of a tract of land in single ownership whose entire area is not greater than two (2) acres into not more than three (3) 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.

*Variance.* The term "variance" shall mean a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue



hardship owing to circumstances unique to the individual property on which the variance is granted.

*Water System Public.* Water supply systems serving ten (10) or more connections are classified as a public water supply by State law. Plans and specifications must be approved by appropriate state agencies.

*Water System, Semi-Public.* Water supply systems serving from two (2) to nine (9) connections, inclusive, as regulated and reviewed by the appropriate authorities.

*Water System, Individual.* A drilled or bored well or spring which serves a single place of use. Individual water supply systems should be located, constructed and operated in accordance with the Division of Health Services, North Carolina Department of Human Resources.

*Yard,* An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward.

*Yard, Front.* An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street or highway right-of-way line and the front line of the building, projected to the side lines of the lot.

*Yard, Rear.* An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

*Yard, Side.* An open, unoccupied space on the same lot with a principal building, situated between the side line of the building and the adjacent side line of the lot and extending from the front line of the front yard to the rear line of the rear yard.

*Zoning Officer.* Town of Rhodhiss official charged with the responsibility of enforcing 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.

*Zoning Permit.* Permit issued by the Zoning Officer indicating that a proposed use is in compliance with requirements of this ordinance.

## **ARTICLE V GENERAL PROVISIONS**

**23-1004. Zoning Affects Every Building and Use.**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this ordinance. Subdivisions and other proposed projects must comply in all aspects with the requirements of both this Ordinance as well as the Subdivision Regulations of the Town of Rhodhiss and any officially adopted Plans of the Town which may affect the property/project in question.

**23-1005. 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 set forth herein, except for street widening. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

**23-1006. Relationship of Building to Lot**

Every building hereinafter 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 the lot, except in the case of an approved Planned Unit Development.

**23-1007. Street Frontage Required**

No building shall be constructed or erected upon any lot which does not abut a public street by twenty-five (25) feet, with the following exceptions:

- 1.** The provisions of **Section 23.1022.** or;
- 2.** Lots in an approved Planned Unit Development, wherein the lots abut an approved courtyard, open space or pedestrian way, and which clearly shows sufficient access for emergency and utility services.

**23-1008. Undefined and Unlisted Land Uses**

Unless noted otherwise, a use that is not defined and listed as a permitted use in the ordinance is not a permitted use by right. Undefined land uses will be reviewed and a recommendation rendered by the Planning Board. The recommendation will be reviewed and a decision shall be rendered by the Board of Commissioners.

**23-1009. Determinations for Unusual or Irregular Lot Shapes**

On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the Zoning Officer. The determination will be based on the spirit and intent of this ordinance to achieve an appropriate spacing of buildings and orientation to the street.

**23-1010. Recreational Vehicles, Campers, and Park Models.**

In no case shall a recreational vehicle, camper, park model, or other such structure which does not meet North Carolina Building Code or U.S. Department of Housing and Urban Development (HUD) standards be operated as a permanent or temporary residence outside of an approved campground.

**23-1011. Outdoor/Open Storage**

In no case shall outdoor storage be permitted as a primary or accessory use, other than approved bulk earth storage uses, or daily display of goods or materials for sale returned indoors at the close of each business day.

**23-1012. Non-Conforming Uses, Structures, and Parcels.**

- 1.** Any non-conforming uses of land may only be changed to a conforming use more in character with the uses permitted in the District.
- 2.** When a non-conforming use has been abandoned or ceased operations for at least one-year, it shall not thereafter be allowed to continue unless said use conforms with the zoning ordinance.
- 3.** A non-conforming use may not be extended or enlarged beyond its existing intensity.
- 4.** A nonconforming structure may be extended or enlarged, as long as the expansion does not increase the intensity of a nonconforming use or create new nonconformities.
- 5.** A non-conforming parcel of land shall be modified to comply with the requirements of this ordinance prior the issuance of a zoning permit.

**ARTICLE VI  
ZONING DISTRICTS ESTABLISHED**

**23-1013. Use District Names**

For the purpose of this ordinance the zoned area of Town of Rhodhiss is hereby divided into the following zoning districts:

- R-15 Low Density Residential
- R-10 Neighborhood Residential
- MU-R Neighborhood Mixed Use
- C-1 Commercial
- M-I Manufacturing/Industrial

Those with a conditional district will have "CD" following the underlying zoning classification.

**23-1014. District Boundaries Shown on Zoning Map**

The boundaries of the districts are shown on the map accompanying this ordinance and made a part hereof entitled "Official Zoning Map, Town of Rhodhiss, North Carolina ". The zoning map and all the notations, references and amendments thereto and other information shown thereon are hereby made

a part of this ordinance the same as if such information set forth on the map were all fully described and set out herein. The zoning map properly attested is posted at the office of the Town Hall and is available for inspection by the public. The maps may be in paper or a digital format approved by the local government (G.S. 160D-105).

**23-1015. Due Consideration Given to District Boundaries**

In the creation by this ordinance of the respective districts, careful consideration is given to the peculiar suitability of each and every district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the Town.

**23-1016. Rules Governing Interpretation of District Boundaries Delineation**

District boundary lines shall be construed to be along or follow property lines, lot lines, the centerline of streets, alleys, easements, other rights-of-way, and creeks, streams or other water channels. In the absence of specified distances on the map, dimensions or districts shall be determined by scaling the distance on the Official Zoning Map.

**23-1017. Zoning Districts Described**

**23-1017.1. R-15 Low-Density Residential District**

This district is intended to provide a rural, quiet, lower-density area predominantly suited to single-family detached homes, with larger lots and setbacks. This district may have limited access to public utilities.

a. Allowed Uses

Uses allowed are in accordance with Article 7.

b. Dimensional Standards

All development shall comply with the standards of Section 23.1018.

**23-1017.2. R-10 Neighborhood Residential District**

This district is intended to provide for a range of housing types and easy access to Town attractions, businesses and amenities, while still providing for safe, attractive residential neighborhoods.

a. Allowed Uses

Uses allowed are in accordance with Article 7.

b. Dimensional Standards

All development shall comply with the standards of Section 23.1018.

**23-1017.3. MU-R Neighborhood Mixed Use District**

This district is intended to provide for a diverse mixture of housing, and neighborhood-scale commercial uses. It is the intent of this district to generate a vibrant central area of Rhodhiss centered on the riverfront, where residents can live, work and enjoy the natural beauty and economic vitality of the Town.

a. Allowed Uses

Uses allowed are in accordance with Article 7.

b. Dimensional Standards

All development shall comply with the standards of Section 23.1018.

**23-1017.4. C-1 Commercial District**

This district is intended to provide space for more intensive commercial and business uses which may be more disruptive to the activities of daily living in more residential districts, but which provide employment, service and retail options for the Town and its environs.

a. Allowed Uses

Uses allowed are in accordance with Article 7.

b. Dimensional Standards

All development shall comply with the standards of Section 23.1018.

c. Buffering Standards

When a parcel in the C-1 district abuts one or more parcels in the R-15, R-10, or MU-R district, a planted buffer shall be installed of at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten (10) feet apart, and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and five (5) feet or more in height after one (1) growing season, and said strip shall be planted and maintained in a healthy, growing condition by the property owner.

**23-1017.5. M-I Manufacturing/Industrial District**

This district is intended for more intensive manufacturing and industrial uses which have the potential to cause considerable disruption to residents. Uses in this district, due to their scale, often choose larger parcels of land with a focus on easy access for shipping partners.

a. Allowed Uses

Uses allowed are in accordance with Article 7.

b. Dimensional Standards

All development shall comply with the standards of Section 23.1018.

c. Buffering Standards

When a parcel in the M-I district abuts one or more parcels in the R-15, R-10, or MU-R district, a planted buffer shall be installed of at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten (10) feet apart, and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and five (5) feet or more in height after one (1) growing season, and said strip shall be planted and maintained in a healthy, growing condition by the property owner.

**23.1018. Dimensional Standards**

Zoning District	R-15	R-10	MU-R	C-1	M-1
	Low-Density Residential	Neighborhood Residential	Neighborhood Mixed Use	Commercial	Manufacturing/Industrial
minimum lot width (standard lot)	40'	25'	25'	40'	100'
minimum lot width (multi-family)	N/A	60'	60'	60'	N/A
minimum lot area (excluding PUD)	15,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	20,000 sq. ft.

Minimum lot area (PUD)	At least one contiguous acre per project, or three acres for industrial PUDs. Lot size within PUDs shall be determined by site context and average of surrounding lot sizes.				
<b>Primary Structure Setbacks</b>					
Front (from ROW)	20'	20'	10'	20'	25'
rear	30'	30'	20'	10'	30'
side	8'	8'	8'	8'	15'
From side street ROW	25'	20'	20'	20'	20'
<b>Accessory Structure Setbacks (detached accessory dwelling units must meet primary structure setbacks)</b>					
rear	10'	10'	10'	10'	10'
side	10'	10'	10'	10'	10'
from side streets ROW	20'	20'	20'	20'	20'
from primary structure	5'	5'	5'	5'	5'
<b>Building height</b>					
Primary	35'	35'	35' <sup>(4)</sup>	50' <sup>(4)</sup>	35' <sup>(4)</sup>
<b>Maximum % of total impervious lot coverage.</b>					
Without engineered stormwater controls	24%	24%	24%	24%	24%
With engineered stormwater controls	50%	50%	50%	50%	50%

<sup>(1)</sup> plus 25' for each additional unit

<sup>(2)</sup> can include off-street parking 10' from ROW/property line

<sup>(3)</sup> plus 15' if abuts residential district

<sup>(4)</sup> plus 1' for each additional 2' of extra front setback

**ARTICLE VII  
USE REQUIREMENTS BY DISTRICT**

Within the district indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or in part, for any purpose other than those listed as permitted for the district in this article. If a use is not listed or there is reasonable ambiguity as to the nature of a proposed use, the provisions of **Section 23-1008** shall apply.

**23.1019. District Usage Chart**

<b>USE TYPES</b>	<b>R-15</b>	<b>R-10</b>	<b>MU-R</b>	<b>C-1</b>	<b>M-I</b>
<b>Accessory Buildings and Uses</b>	<i>Permitted in all districts</i>				
<b>Residential</b>	<b>R-15</b>	<b>R-10</b>	<b>MU-R</b>	<b>C-1</b>	<b>M-I</b>
Condominiums		X	X	X	
Family Care Home	X	X	X		
Home Occupations	A	A	A	A	
Manufactured home, double-wide (Class A)	X				
Manufactured home, single-wide (Class B)					
Modular homes	X	X	X		
Multifamily		X	X	X	
Single family	X	X	X	X	
Townhouses		X	X		
Two-family	X	X	X	X	
PUD-R (Conditional)	PC	PC	PC		
<b>Recreational</b>	<b>R-15</b>	<b>R-10</b>	<b>MU-R</b>	<b>C-1</b>	<b>M-I</b>
Clubs and lodges	X	X	X	X	
Community centers	X	X	X	X	
Parks	X	X	X	X	
Playgrounds	X	X	X	X	
Swimming pools as a principal use	X	X	X	X	
Campgrounds	PC				
<b>Institutional</b>	<b>R-15</b>	<b>R-10</b>	<b>MU-R</b>	<b>C-1</b>	<b>M-I</b>
Art galleries			X	X	
Cemeteries	X	X	X	X	
Churches/Religious Buildings	X	X	X	X	
Day cares	A	A	PC	PC	
Elementary schools	X	X	X		
Fire and police stations	X	X	X	X	X
Hospitals			X	X	



Kindergartens	X	X	X		
Museums			X	X	
Nursing/rest homes	X	X	X	X	
Public libraries	X	X	X	X	
Public works facilities	X	X	X	X	X
Secondary schools	X	X	X		
<b>Business</b>	<b>R-15</b>	<b>R-10</b>	<b>MU-R</b>	<b>C-1</b>	<b>M-I</b>
Alcoholic beverages, packaged, retail sales				X	
Adult Businesses				PC	
Automobile repairs garages				X	X
Automobile sales, new and used				X	X
Automobile washing establishments				X	X
Bars			X	X	
Bakeries			X	X	X
Banks and financial institutions			X	X	
Barber and beauty schools			X	X	
Barber and beauty shops			X	X	
Bicycle sales and repair shops			X	X	X
Billiard or pool halls			X	X	
Bowling alleys			X	X	
Building supply and material sales				X	X
Bulk Earth Material Sales				X	X
Dental clinics			X	X	
Drug store			X	X	
Dry cleaning and laundering			X	X	X
Electrical appliance and equipment, sales and repair			X	X	X
Fabricating shops				X	X
Funeral homes and mortuaries			X	X	
Greenhouses and nurseries			X	X	X
Hotels and motels			X	X	
Laundromats			X	X	
Locksmiths			X	X	
Medical clinics			X	X	
Microbreweries and Craft Distilleries			X	X	
Mini Storage					X
Music, art, or dance studios/schools			X	X	
Offices, business and professional			X	X	X
Opticians and optical goods			X	X	
Pawn shops				X	
Printing, publishing, and reproducing				X	X
Produce stands and markets	A	A	A	X	

Restaurants			X	X	
Retail sales			X	X	
Service stations				X	X
Tattoo Parlor			X	X	
Theatres, indoor			X	X	
Veterinary clinics			X	X	
PUD-B (Conditional)			PC	PC	
<b>Manufacturing</b>	<b>R-15</b>	<b>R-10</b>	<b>MU-R</b>	<b>C-1</b>	<b>M-I</b>
Wholesale/Industrial Bakeries					X
Bedding, carpet and pillow manufacturing					X
Boat works and sales				X	X
Bottling plants					X
Brick, tile and pottery yards					X
Cabinet and woodworking shops					X
Clothing manufacturing					X
Electrical appliances manufacturing					X
Farm machinery assembly or repair					X
Food processing					X
Furniture manufacturing					X
Glass products manufacturing					X
Ice plants and cold storage lockers					X
Industrial equipment sales and repairs					X
Lumber yards, building materials, storage and sales					SUP
Machines and welding shops					X
Machine tool manufacturing					X
Metal fabrication plants					SUP
Monument works and sales				X	X
Pharmaceutical manufacturing					X
Plastic and rubber goods manufacturing					SUP
Plumbing, heating and refrigeration shops and storage					X
Precision instrument manufacturing					X
Printing, publishing, reproducing establishments				X	X
Radio and television stations				X	X
Radio, television and telecommunication towers				SUP	SUP
Sheet metal and roofing shops					X
Sign painting and fabricating shops				X	X
Textile manufacturing					X
Upholstery shops					X
Wholesale and warehouse establishments					X
PUD-M (Conditional)					PC
<b>Key</b>					

X = Permitted use					
SUP = Special use					
A = Accessory use					
PC = Permitted with conditions					

**ARTICLE VIII  
EXCEPTIONS AND MODIFICATIONS**

**23.1020. Lot of Record**

When the owner of a lot of official record in any district at the time of the adoption of the initial Zoning Ordinance, does not own sufficient contiguous land to enable him to conform to the dimensional requirements of this Ordinance, such lot may still be used as a residential building site.

**23.1021. Visibility at Intersections**

On a corner in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than two (2) feet in height measured from the center line of the street or road shall be placed or maintain within the triangular area formed by the intersecting street or road right-of-way lines and a straight line connecting points on said street or road right-of-way lines each of which is twenty-five (25) feet distant from the point of intersection.

**23.1022. Provision for Landlocked Lots**

Existing landlocked lots within the residential zoning district, defined as a lot that does not abut a public street and therefore does not meet the requirements that the lot have a minimum frontage on a public street of twenty-five (25) feet, may nevertheless be developed for one single family dwelling unit if the lot otherwise meets the zoning requirements of the zone in which the lot is located and provided that the lot has a recorded easement of ingress and egress to and from a public street which is appurtenant to the lot and which meets the following requirements:

- 1.** A private easement with a minimum continuous width of twenty-five (25) feet is acquired from intervening property owners;
- 2.** The recorded documents creating the easement shall specify that public service, utility and emergency personnel and vehicles shall have freedom of ingress and egress from the landlocked property;
- 3.** The recorded documents shall also specify that public utilities (water, sewer, electricity, telephone, cable, etc.) may be located within the easement;
- 4.** The recorded documents shall include a maintenance agreement specifying the party responsible for maintaining the easement and its traveled surface;

5. The easement must have an all-weather surface of gravel, concrete or asphalt with a minimum continuous width of ten (10) feet to ensure access of public service, utility, and emergency personnel and vehicles;
6. Subdivision of landlocked parcels will require a publicly dedicated street constructed to Town Standards and must meet all requirements of the Town's Subdivision Regulations.

**ARTICLE IX  
CONDITIONS FOR CERTAIN USES**

**23.1023. Animal Keeping**

The purpose of this section is to regulate the keeping of a horse, mule, goat, cattle, fowl and other birds that are not part of a Bona Fide farming operation. The ordinance applies to properties located within the corporate limits of the Town.

1. Keeping of fowl and allowed animals (goats, etc) is permitted in the R-10 and R-15 districts.
2. All areas, including but not limited to stables, barns, and pasture, shall be maintained in a clean and sanitary manner to prevent odors, rodents, and flies.
3. Animals shall not be permitted to roam at large. Containment areas for animals must be at least 100 feet from structures on adjacent properties under different ownership.
4. Coops and pens must be completely fenced so as to ensure that no fowl/bird may escape. Any area that birds roam must be enclosed by a fence. Fowl and other birds roaming at large shall not be permitted.
5. Pens shall be a minimum of 50 feet from all property lines.
6. A maximum of 15 chickens may be allowed on any one parcel. Roosters are not permitted.
7. Pigs, hogs, horses and or cattle are not permitted to be kept in Town limits.

**23.1024. Manufactured Homes on Individual Lots**

The purpose of these regulations is to promote sound neighborhood development, protect community appearance standards and values, and ensure health and safety. Class A (Double-Wide) manufactured homes are permitted on individual lots in the R-15 District under the following conditions.

1. The lot must be recorded as an individual lot in the County Register of Deeds.
2. All yard dimensional requirements for the respective district must be met
3. The lot must front on a public street or approved private street and said street frontage will be considered the front of the lot. In cases where a private street is proposed to be



used, the Zoning Officer shall require that a recorded right of way exist to serve the property and the street is paved or graveled in a manner that will facilitate safe and efficient vehicular traffic.


- 4.** The manufactured home must meet or exceed the construction standards established by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction. These standards became effective on July 15, 1976.
- 5.** The pitch of the main roof of the building shall have a minimum rise of one foot for every three feet of horizontal run.
- 6.** The roof shall be finished with a type of shingle that is commonly used in standard residential construction.
- 7.** All roof structures shall provide an eave protection of no less than six inches which may include a gutter.
- 8.** Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white. The exterior of the manufactured home must be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: (1) vinyl or aluminum lap siding; (2) cedar or other wood siding; (3) wood grain, weather resistant press board siding; (4) stucco siding; or (5) brick or stone siding.
- 9.** A continuous, permanent masonry wall, having the appearance of a conventional load-bearing foundation wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home. All manufactured homes shall be tied down in accordance with North Carolina State Building Codes.
- 10.** Each manufactured home shall have either a deck or porch with steps at the front of the home. The minimum square footage of the porch or deck shall measure at least thirty-six (36) square feet. Any door that opens outward must have a minimum 3'X3' landing. These structures shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance and state building code, attached firmly to the primary structure and anchored securely to the ground.
- 11.** The running lights, the moving hitch and undercarriage chassis shall be removed upon final placement of the unit.

### **23.1025. Home Occupations**

A home occupation is permitted accessory to any dwelling unit accordance with the following requirements:

- 1.** The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
- 2.** A home occupation conducted in an accessory structure shall be housed only in a garage or

other accessory structure typically associated with a dwelling.

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- 3.** The use shall employ no more than one person who is not a resident of the dwelling.
  - 4.** A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.
  - 5.** There shall be no visible outside display of stock in trade which is sold on the premises.
  - 6.** There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
  - 7.** Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.
  - 8.** Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.
  - 9.** The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
  - 10.** Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.
  - 11.** Outdoor kilns used for the firing of pottery shall be provided with a semi-opaque screen to obstruct the view from the street and from adjacent properties located in residential districts, shall have a secured work area, and shall be a minimum of 10 feet from abutting property lines.
  - 12.** One non-illuminated sign is permitted, with a surface area not to exceed four square feet. The height, including the supporting structure shall not exceed four feet.

**23.1026. Accessory Dwelling Units**

- 1.** An accessory dwelling may be attached, within, or separate from the principal dwelling.
- 2.** The principal use of the lot shall be a detached or attached single-family dwelling, built to the standards of the North Carolina Building Code. A manufactured home shall not be permitted as an accessory dwelling. Recreational vehicles shall not be permitted as accessory dwellings.
- 3.** No more than one accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.
- 4.** The accessory dwelling shall be owned by the same person as the principal dwelling.
- 5.** The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.
- 6.** A detached accessory dwelling shall be housed in a building not exceeding 650 square feet of first floor area (maximum footprint) or 50% of the first floor area of the principal

dwelling, whichever is greater; the structure may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use.

7. A detached accessory dwelling shall be located in the established rear yard or side yard, providing it meets principal setback requirements.
8. Temporary health care structures as defined in NCGS § 160D-915 shall be regulated as compliant with said statute.

### **23.1027. Adult Uses**

Adult establishments are permitted in the C-1 District subject to the requirements below:

1. Any structure in which an adult establishment is the principal or accessory use shall be separated by a distance of at least 1000 feet from any residential or mixed use zoning district and from the following principal or accessory uses, defined as protected uses for purposes of this section: dwelling units, elementary and secondary schools, religious institutions, child care centers, parks and playgrounds.
2. Any structure in which an adult establishment is the principal or accessory use shall be separated by a distance of at least 1000 feet from any other adult establishment.

### **23.1028. Accessory Structures**

Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot must be placed according to the dimensional requirements of the underlying zoning district as shown in **Section 23.2018, Dimensional Standards**. In addition, accessory structures must meet the following standards.

1. Accessory structures may cover a maximum of 25% of the combined side and rear yard areas. In no case shall a residential lot have more than two accessory structures, not including an in-ground swimming pool.
2. Manufactured homes or truck trailers, either with current tags or untagged, may not be used for accessory structures and cannot be converted for storage or other purposes.
3. Fences and walls are regulated only to the extent that they cannot exceed six feet in height when located in the front setback and cannot impede the clear sight triangle at a street intersection.
4. Shipping containers are not permitted as accessory structures in any district.
5. Accessory dwelling units must meet the required setbacks for a principal structure in the underlying zoning district.
6. Swimming pools must be placed in the established rear yard and meet rear and side setbacks for accessory structures.
7. Ground-mounted solar panels shall be treated as accessory structures, and must be placed in the established rear yard, must meet rear and side setbacks for accessory

structures, and cannot exceed 12 feet in height. Roof-mounted solar panels shall not be counted as accessory structures, but must meet principal setbacks and height limits.

### **23.1029. Day Cares**

#### **23.1029.1 Day Cares as Primary Uses**

- a. Play space must be provided in accordance with the regulations of North Carolina Department of Human Resources.
- b. Outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.

#### **23.1029.2 Day Cares as Accessory Uses**

- a. The day care operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to 5 children not related to the operator.
- b. Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources.
- c. Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any established building setback from a street.
- d. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.

### **23.1030. Commercial Communications Towers**

Commercial Communication towers shall meet the following standards:

- 1.** To encourage future shared use of commercial communication towers, the tower owner must demonstrate that the tower will support a specified number of antennas, and must file a letter of intent with the town to lease the space to other users in good faith. In turn, the owner may charge users a proportionate share of capital, financing, and operating costs, plus the cost of insulating equipment so that the transmissions do not interfere with one another.
- 2.** No new commercial communication tower may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the proposed tower is to serve.
- 3.** If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings.



- 4.** Fencing must be provided to secure the communication equipment on site. If chain link or similar fencing material is used on the site, an opaque screen shall be provided on the exterior side of the fence.
- 5.** All obsolete or unused facilities must be removed within 12 months of cessation of operations at the site.
- 6.** No equipment, mobile or immobile, not used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made.
- 7.** Towers shall not be artificially lighted except to ensure human safety as required by the Federal Aviation Administration (FAA) regulations. To the extent possible, tower lighting shall be located and directed to avoid flashing or shining into the interior spaces of dwellings.
- 8.** A vegetative screen expected to reach minimum 8' height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing, and auxiliary uses such as parking. In addition, existing onsite trees and other vegetation shall be preserved to the extent possible.
- 9.** No more than one communication tower shall be constructed on a single tract of land.
- 10.** If such a structure is located on a lot adjacent to a lot or lots located in a residential or mixed use district, it must be located at least 200 feet from all property lines adjacent to the residential or mixed use district.
- 11.** Any telecommunication tower must meet all federal, state and local standards regarding the positioning of towers near airports.

**23.1031. Campgrounds/RV Parks**

These special provisions for recreation vehicle parks and campgrounds are designed to encourage the compatibility of these parks with surrounding land uses, maintain a safe and healthy atmosphere, minimize adverse environmental impacts and stabilize demand on local public services.

- 1.** Recreation vehicle parks shall be used only by travel trailers, pick-up coaches, motor homes, camping trailers, other vehicular accommodations and tents, all of which are designed specifically for temporary habitation and used for travel, vacation and recreation purposes.
- 2.** The site plan for the proposed campground shall include the name and address of the applicant, a small vicinity map, as well as a map showing the property dimensions, the location and dimension of each camp site, the location and use of all service and recreational facilities, all interior access ways, and the location of all proposed facilities, for sanitation, solid waste, drainage and fire prevention. Such plans shall be distributed to and approved by the respective governing authorities before an occupancy certificate is issued.

- 3.** The minimum area of the campground shall be no less than one and one-half (1 ½) acres. Density shall be no more than ten (10) sites per acre. Each recreation vehicle site shall be at least eighteen hundred (1,800) square feet in area.
- 4.** Each site shall contain a stabilized vehicular parking pad of packed gravel, marl, paving or other suitable material.
- 5.** A set-back of thirty (30) feet from a public right-of-way or from a property line abutting a residential lot or residential use district shall be required. All other yard setback requirements shall be twenty-five (25) feet.
- 6.** A campground shall have a minimum of thirty-five (35) feet of frontage on a public street or right-of-way. Entrances and exits to campgrounds shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets. Radii of curbs and pavement at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. All ingress and egress to and from public streets shall meet the specifications of the North Carolina Department of Transportation.
- 7.** Streets within recreation vehicle parks shall be private but shall be constructed with a stabilized travel-way (packed gravel, marl, paving or other suitable material).
- 8.** Dumpsters, regular trash pick-up and appropriate disposal of trash from all parts of the property is required.

### **Section 23.1032. Planned Unit Developments**

The planned unit development (PUD) concept offers developers the possibility of more efficient and flexible methods for developing property with respect to the appropriate permitted and special uses of a district. The Town may approve this form of development as a conditional district overlay of the base district depending on the type of PUD (for example, a PUD-R is allowed conditionally in R-15, and a parcel with an approved unified site plan as a PUD may be rezoned as "R-15CD").

#### **23.1032.1. Planned Unit Development, Residential (PUD-R)**

The residential planned unit development or cluster subdivision concept offers developers the possibility of more efficient and flexible methods for developing property, and provides residents of the project with larger open spaces for recreation and other activities properly related to residential use. The Town Board of Commissioners may approve this form of development as a conditional rezoning provided the following below conditions are met. There is nothing limiting for other conditions to be added to the request should the applicant agree in writing to the conditions associated with the conditional rezoning request to obtain approval.

- a. Such development is an integrated plan for the primary purpose of residential use and if applicable, other small-scale support and limited commercial uses.
- b. The site for the total development for a planned unit development is at least one (1) acre and at least two (2) buildings are included in the plan. Total site development for a cluster subdivision is a minimum of three (3) acres and 30% designated open space to be reserved in perpetuity. Open space calculations do not include stormwater devices.
- c. That the total parcel of land is under single ownership or control, and there is reasonable assurance that the development can be successfully completed and maintained, including care and maintenance of all common space, recreation space, and other common areas. There shall be rules, regulations and restrictions governing any Property Owner's Association (POA).
- d. The maximum residential density shall be determined by the amount of required open space, infrastructure –streets, stormwater devices, etc., utility and other easements, and environmental impacts, such as floodplain and wetlands.
- e. Off-street parking shall be provided as per **Section 23.1047**.
- f. All streets shall be constructed, paved and certified by a professional engineer to the standards of the North Carolina Department of Transportation. All parking areas and other paved surfaces shall meet the NC Building Code and ADA requirements and be maintained by the POA.
- g. A preliminary plan for the proposed development shall be submitted and must show, at minimum, all proposed uses of land, dimensions between buildings and from buildings to property lines, general exterior dimensions of buildings, location and material of any required or proposed screening walls or plantings, schedule of the number and size of housing units, traffic circulation and parking schematics, and proposed exterior design of buildings.
- h. The preliminary plan for the proposed development shall be submitted to the Planning Board for review and a recommendation made to the Town Board of Commissioners. The Planning Board may require design changes which may include, but shall not be limited to, provisions for drainage, landscaping, buffer areas, lighting, parking, streets and access ways. The applicant must resubmit the plan within thirty (30) days, if changes are required. Upon review the Planning Board shall make a recommendation to the Town Board of Commissioners. The Town Board of Commissioners shall make a decision to approve as is, approve with conditions the applicant agrees to, or deny the applicant's conditional rezoning request.
- i. In addition to the requirements hereinabove set forth, the procedure for final approval shall be as required in **Section 23.1052.3** for Conditional Rezoning request approvals, and the parcel shall be marked as the underlying district followed by "CD" on the Zoning Map if approved.



### **23.1032.2. Planned Unit Development, Business (PUD-B)**

The purpose of a PUD-B is to provide a means by which a group of businesses occupying a group of principal buildings may be developed on a site under unified control, which planned and developed as a whole or in stages. The type of development allowed under PUD-B is also referred to as the planned shopping center. A PUD-B development is intended to provide a variety of goods and services in stores and offices conveniently arranged with respect to each other and to off-street parking facilities provided with safe access from and to the appropriate public streets. The Town Board of Commissioners may approve this form of development as a conditional rezoning provided the following below conditions are met. There is nothing limiting for other conditions to be added to the request should the applicant agree in writing to the conditions associated with the conditional rezoning request to obtain approval.

- a. Such development is an integrated plan for the primary purpose of commercial and/or office use.
- b. The site for the total development for a planned unit development is at least one (1) acre and at least two (2) buildings are included in the plan.
- c. That the total parcel of land is under single ownership or control, and there is reasonable assurance that the development can be successfully completed and maintained, including care and maintenance of all common space and means of ingress/egress and circulation on the site.
- d. Off-street parking shall be provided as per **Section 23.1047**.
- e. All streets shall be constructed, paved and certified by a professional engineer to the standards of the North Carolina Department of Transportation. All parking areas and other paved surfaces shall meet the NC Building Code and ADA requirements.
- f. A preliminary plan for the proposed development shall be submitted and must show, at minimum, all proposed uses of land, dimensions between buildings and from buildings to property lines, general exterior dimensions of buildings, location and material of any required or proposed screening walls or plantings, traffic , pedestrian and automobile circulation, loading and parking schematics, and proposed exterior design of buildings.
- g. The preliminary plan for the proposed development shall be submitted to the Planning Board for review and a recommendation made to the Town Board of Commissioners. The Planning Board may require design changes which may include, but shall not be limited to, provisions for drainage, landscaping, building orientation, buffer areas, lighting, parking, pedestrian circulation, streets and access ways. The applicant must resubmit the plan within thirty (30) days, if changes are required. Upon review the Planning Board shall make a recommendation to the Town Board of Commissioners. The Town Board of



Commissioners shall make a decision to approve as is, approve with conditions the applicant agrees to, or deny the applicant's conditional rezoning request.

- h. In addition to the requirements hereinabove set forth, the procedure for final approval shall be as required in **Section 23.1052.3** for Conditional Rezoning request approvals, and the parcel shall be marked as the underlying district followed by "CD" on the Zoning Map if approved.

### **23.1032.3. Planned Unit Development, Manufacturing (PUD-M)**

The purpose of the planned unit development, manufacturing is to provide a means by which to develop manufacturing and related use under unified control, which is planned and developed as a whole or in stages. The Town Board of Commissioners may approve this form of development as a conditional rezoning provided the following below conditions are met. There is nothing limiting for other conditions to be added to the request should the applicant agree in writing to the conditions associated with the conditional rezoning request to obtain approval.

- a. Such development is an integrated plan for the primary purpose of industrial or manufacturing use and limited service/accessory uses.
- b. The site for the total development for a planned unit development is at least three (3) acres and at least two (2) buildings are included in the plan.
- c. That the total parcel of land is under single ownership or control, and there is reasonable assurance that the development can be successfully completed and maintained, including care and maintenance of all common space and means of ingress/egress and circulation on the site.
- d. Off-street parking shall be provided as per **Section 23.1047**.
- e. All streets shall be constructed, paved and certified by a professional engineer to the standards of the North Carolina Department of Transportation. All parking areas and other paved surfaces shall meet the NC Building Code and ADA requirements.
- f. A preliminary plan for the proposed development shall be submitted and must show, at minimum, all proposed uses of land, dimensions between buildings and from buildings to property lines, general exterior dimensions of buildings, location and material of any required or proposed screening walls or plantings, traffic circulation and parking schematics, proposed means of controlling noxious fumes or excessive noise if applicable, and proposed exterior design of buildings.
- g. The preliminary plan for the proposed development shall be submitted to the Planning Board for review and a recommendation made to the Town Board of Commissioners. The Planning Board may require design changes which may include, but shall not be limited to, provisions for drainage, landscaping, building orientation, buffer areas, lighting, parking, pedestrian circulation,

streets and access ways. The applicant must resubmit the plan within thirty (30) days, if changes are required. Upon review the Planning Board shall make a recommendation to the Town Board of Commissioners. The Town Board of Commissioners shall make a decision to approve as is, approve with conditions the applicant agrees to, or deny the applicant's Conditional rezoning request.

- h. In addition to the requirements hereinabove set forth, the procedure for final approval shall be as required in **Section 23.1052.3** for Conditional Rezoning request approvals, and the parcel shall be marked as the underlying district followed by "CD" on the Zoning Map if approved.

## **ARTICLE X SIGNS**

### **23.1033. Signs and Structures**

The purpose of this section is to establish minimum regulations controlling the number, size and placement of signs in such a way as to support and complement the land use objectives set forth in the district-specific regulations of the zoning ordinance.

**23.1033.1 Exempt Signs:** The following signs are exempt from the permit and regulation requirements of this section:

- a. Official governmental signs. Such as traffic or similar regulatory devices, erected and maintained pursuant to any Federal, State, County or Town governmental function.
- b. Identification signs. Not to exceed two (2) square feet in area bearing only property identification numbers and names, post office box numbers, and names of occupants of the premises, which are not illuminated and are not of a commercial nature.
- c. Instructional signs displayed strictly for the direction, safety or convenience of the public, such as signs which identify restrooms, parking area exits and entrances, signs warning of danger, and no trespassing signs.
- d. Non-illuminated temporary signs. Such as but not limited to, political signs and posters when located entirely on private property, and less than six (6) square feet in area, provided all such signs shall be removed within seven (7) days following the election.
- e. Temporary construction or development signs. Signs denoting the architect, engineer, or contractor and placed on premises where construction, repair or renovation is in progress. Such signs shall not exceed sixteen (16) square feet, are limited to one (1) per lot, may not be erected prior to the issuance of a

building permit, and must be removed within seven (7) days of the issuance of a Certificate of Occupancy.

- f. NCDOT Temporary Portable Signs. Signs utilized by the North Carolina Department of Transportation are exempt from the provisions of this section of the sign regulations. With proper authority being given, construction contractors and public utility companies are permitted to erect temporary construction and maintenance signs at the work sites to protect the public, equipment and workmen, provided that such signs conform to the standards of the Manual on Uniform Traffic Control Devices for Streets and Highways issued by the United States Department Of Transportation, Federal Highway Administration, 1971, or any subsequent revisions thereof approved by the North Carolina Department of Transportation.
- g. Temporary real estate signs. Shall not exceeding four (4) square feet may be erected and limited to two (2) per lot and must be removed within seven (7) days of closing.
- h. Miscellaneous temporary signs. Signs advertising events in the Town shall be removed immediately following the event, and provided that no more than three such signs shall be allowed at any time on one parcel.

**23.1034. General Sign Provisions**

- 1.** Signs shall be constructed and installed in accordance with all applicable provisions of the North Carolina State Building and Electrical Codes.
- 2.** All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.
- 3.** Content of message, commercial or noncommercial, is not regulated by this ordinance.
- 4.** No sign shall be placed so as to obstruct the clear sight triangle at a street intersection.
- 5.** At no time shall more than four signs be permitted on any parcel, including temporary signs.

**23.1035. Permanent Signage Dimensional Standards for All Districts**

**23.1035.1 Wall Mounted Signs:**

- a. Maximum Area: 10% of any wall face area fronting a street
- b. Maximum number: 1 per street frontage

**23.1035.2 Ground-Mounted Signs:**

- a. Maximum Area: 32 square feet
- b. Maximum Height: 8 feet

- c. Maximum number: 1 per street frontage
- d. Signs must be set back at a minimum of 5' from Right of Way

**23.1036. Prohibited Signs in All Districts**

The following signs are not permitted in any district.

- 1. Roof signs
- 2. Portable signs, with the exception of sidewalk signs brought inside at the close of business
- 3. Flashing, fluttering, swinging, or rotating signs.
- 4. Signs that are similar in color, design, and appearance to traffic control signs.
- 5. Vehicular signs
- 6. Other signs not expressly allowed by this ordinance.

**23.1037. Nonconforming Signs**

Nonconforming signs which were otherwise lawful on the effective date of this article may be continued provided they conform to the following provisions:

- 1.** No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition.
- 2.** The message of a nonconforming sign may be changed
- 3.** If a nonconforming sign which 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 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.

**23.1038. Application for Sign Permit**

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

- 1.** The street name and street number of the building, structure or lot on which a sign is to be placed.
- 2.** Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign. If the applicant is not the owner or lessee of the lot on which the sign will be located, written permission from the property owner or a



designated representative stating agreement that the sign may be erected on the parcel for which the permit has been applied shall be required.

- 3.** A site or plat plan of the property involved, showing accurate placement of the proposed sign
- 4.** Other information as the Zoning Officer may require to determine full compliance with this and other applicable codes.

### **23.1039. Issuance Of Permit**

Upon the filing of an application for a sign permit, the Zoning Officer shall examine the plans and specifications, and, as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this ordinance and other applicable codes, a permit will be issued. Any permit issued in accordance with this section shall automatically become null and void unless the work for which it was issued has visibly commenced within 6 months of the date of issuance or if the work authorized by the sign permit is suspended or abandoned for one year.

## **ARTICLE XI ADMINISTRATION AND ENFORCEMENT**

### **23.1040. Office of the Zoning Officer Established**

This section is concerned with the decisions made in implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS 160-D and within this ordinance. These decisions are known as ministerial or administration decisions.

**23.1040.1**      **Zoning Authority.** This Ordinance shall be administered and enforced by the Zoning Officer, who shall be appointed by the Town Manager.

**23.1040.2**      **Zoning Enforcement.** If the Zoning Officer finds that any of the provisions of this ordinance are being violated, they shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. They 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 other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

**23.1040.3**      **Appeal of Decision.** If a determination of the Zoning Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment. In the case of an ordinance interpretation and/or appeal of permit decision, the

Planning Board will take the position of the Board of Adjustment hearing the testimony in a quasi-judicial format. The Board of Adjustment will render a decision based on fact-based evidence.

**23.1040.4**      **Conflict of Interest.** The Zoning Officer shall not make a final decision on an administrative decision required by this chapter 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 (G.S. 160D-109).

**23.1040.5**      **Inspection.** The Zoning Officer may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town of Rhodhiss at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (G.S. 160D-403(e)).

**23.1040.6**      **Written Determination.** Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Zoning Officer shall provide their determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a));

**23.1041. Certificate of Zoning Compliance Required**

**23.1041.1**      **Zoning Permit.** No building, sign or other structures shall be erected, moved, added to or structurally altered until a certificate of zoning compliance has been issued by the Zoning Officer. No certificate of zoning compliance shall be issued except in conformity with the provisions of this ordinance after written order from the Zoning Officer.

**23.1041.2**      **Written Determination.** Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Zoning Officer shall provide their determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a));

**23.1042. Application for Zoning Permit**

**23.1042.1**      **Zoning Permit Application.** All applications for a certificate of zoning compliance shall be accompanied by two (2) sets of plans, one paper and one in digital format, showing the dimensions and shape of the parcel to be built upon; the exact sizes, uses and locations on the parcel of buildings already existing, if any, and the location and dimensions of the proposed building or alterations including an erosion control plan, if applicable. The application shall include such other information as may be necessary to determine conformance with and provide for the enforcement of this ordinance. A fee set by the Town Board of Commissioners shall be charged for the processing of each such application.

**23.1042.2**      **Vesting.** Zoning permits expire six months after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law. A site specific plan or planned unit development shall remain vested for a period exceeding two years, but not exceeding five years. A multi-phase development shall remain vested for a period of seven years from the time a site plan is approved. For the purposes of this chapter, a multi-phase development must contain 100 acres or more and is submitted for site plan approval for construction to occur in more than one phase and is a master plan that includes a requirement to offer land for public use (G.S. 160D-108(d)).

**23.1042.3**      **Revocation of Development Approvals.** Development approvals may be revoked by the local government issuing the development approval by notifying the permit holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by an official or by planning board may be appealed to the Board of Adjustment pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to 160D-403, the provisions of G.S. 160D-405(f) regarding stays shall be applicable.

**23.1043. Construction Permits**

All construction permits, health department approvals, certificates of occupancy and other legally required approvals will be administered by the appropriate State or County agencies and such agency will issue and enforce these as required.

### **23.1044. Remedies Available**

In any case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this ordinance, the Zoning Official or any other appropriate Town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus or other appropriate action or proceeding to prevent such violation.

## **ARTICLE XII STREETS, PARKING AND LOADING**

The layout of streets should provide structure to the neighborhoods. The formality of the street plan will vary depending upon site conditions and topography. Unique site conditions should be used to create special neighborhood qualities. Site plans shall be provided to the Zoning Officer which clearly show the proposed development will comply with the letter and spirit of this Article. Such a determination shall be made before issuance of a zoning permit.

### **23.1045. General Standards**

New streets shall, as practicable to the determination of the Zoning Officer and to the standards of the Town:

- 1.** Interconnect within a development and with adjoining development, including areas where future development is possible or likely. Cul-de-sacs shall be allowed only where topographical and/or lot line configurations offer no practical alternatives for connections or through traffic. Street stubs shall be provided within development adjacent to open land to provide for future connections.
- 2.** Be bordered by a sidewalk or sidewalks, with the exception of rural roads, lanes, and alleys.
- 3.** Be public. Private streets are not permitted within any new development. Alleys will be classified as public or private depending on function and in line with the standards of the Town.

### **23.1046. Design of Streets and Sidewalks**

Designs should permit comfortable use of the street by motorists, pedestrians, and bicyclists. Pavement widths, design speeds, and the number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the relationship of the street to the overall town street network. The following specifications apply to street design:

- 1.** Sidewalks shall be provided at a minimum be 5' in width.
- 2.** Generally, canopy trees shall be planted at a spacing not to exceed 40' on center. Where overhead utility lines preclude the use of canopy trees, small maturing trees may be substituted, planted 30' on center.
- 3.** On-street parking is recommended. An on-street parking lane, either parallel or angled, on at least one side of the street is recommended on streets serving apartments, attached houses, and detached houses with lots 60' or less in width. On-street parking must also be provided on one side of any street adjacent to a public open space. Parallel on-street parking width is 7' to 8'.
- 4.** Design speeds should not exceed 30 miles per hour on any town streets, unless otherwise posted.
- 5.** Traffic control plans showing signage and pavement markings shall be prepared during construction of new street or sidewalk. The developer is responsible for the initial installation of the devices or markings and the maintenance thereof until the public accepts the street for maintenance.

### **23.1047. Parking**

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Section such parking space may be provided in a parking garage or properly graded open space. The following off-street parking requirements are as follows:

- 1.** To the extent practicable, adjoining parking lots serving non-residential buildings shall be interconnected.
- 2.** All commercial driveway and parking areas shall be paved with asphalt, concrete, or brick pavers except for areas used for overflow, special events, peak parking, and non-commercial agricultural uses. Any non-paved surface that cannot be maintained with healthy, living grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement or brick pavers.  
  
The Zoning Officer may allow alternative material for parking in the interest of increasing pervious surface coverage if the builder provides sufficient evidence that such a design can be maintained in safe and lasting condition.
- 3.** Dumpsters shall be set on a concrete bed and shall be hidden by an opaque fence or wall of sufficient height to screen the bin and any appurtenances, but not less than 6' in height. Wooden shadow box fences are recommended. Trash containers such as dumpsters shall not be located abutting residential property.

**23.1048. Minimum Off-Street Parking, Loading and Unloading Required Spaces**

The table below includes a guide for minimum parking standards. The Zoning Officer shall have the authority to provide an administrative adjustment of 10% to these standards when presented with sufficient evidence and argument for such an adjustment based on the development location/use. These are minimums and may be exceeded.

In the MU-R district, the parking requirements may be reduced or waived by the Zoning Officer if the Zoning Officer determines that sufficient capacity exists for on-street, public off-street, or shared off-street parking.

Shared parking is encouraged, especially for uses which vary in intensity with time of day. Shared parking may be counted toward the minimums.

<b>Residential and Related Uses</b>	<b>Required Off-Street Parking</b>
Any residential use consisting of one or more dwelling units	One parking space for each dwelling unit
Manufactured Homes	One space for each manufactured home
<b>Institutional, Public and Semi-public Uses</b>	<b>Required Off-Street Parking</b>
Churches and funeral homes	One space for every 500 square feet of floor area
Schools	1.5 spaces per classroom in elementary schools; 1 space per 300 square feet of gross floor area for trade or vocational schools; 1 space per 300 square feet of gross floor area for colleges, universities, and community colleges
Libraries	One space for every four seats provided for patron use
Medical offices and clinics	One space per 500 sq. ft. of gross floor area.
Places of public assembly, including private clubs and lodges, auditoriums, dance halls, pool halls, stadiums, gymnasiums, amusement parks, community centers, and all similar places of public assembly.	One space for each four fixed seats provided for patron use, plus one space for each 300 square feet of ground area used for amusement or assembly not including fixed seats.
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions.	One space for each six patient beds, plus one space for each staff, or visiting doctor plus one space for each four employees.
Apartment complex for the elderly	One space for each apartment

<b>Business Uses</b>	<b>Required Off-Street Parking</b>
Hotels	One space for each room, plus two additional spaces for employees.
Offices, including banks	One space for each 400 square feet of gross floor area
Restaurants	One space for each three seating accommodations, plus one space for each two expected employees of the shift of largest employment.
Restaurant – Drive In	One space for each 200 square feet of gross floor area
Retail business	One space for each 400 square feet of gross floor area
Service Stations	One space per 200 square feet of gross floor area of building devoted primarily to gas sales operation
Shopping Centers	One space for each 500 square feet of gross floor area
Wholesale and Industrial	One space for each two employees at Operations maximum employment on a single shift.
<b>Off-street Loading and Unloading Space</b>	
*Retail operations	One loading space for each 5,000 square feet of gross floor area or fraction thereof
*Wholesale/Industrial Operation	One loading space for each 10,000 square feet of gross floor area or fraction thereof
*Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley, or if there is no alley available, then to a street. For the purpose of this section, an off-street loading space shall have a minimum dimension of 12 feet by 40 feet and overhead clearance of 14 feet in height above the alley or street grade.	

**23.1049. Landscaping and Design of Parking Areas**

The landscaping requirements of this section shall apply to land, public and private, designated as multi-family, recreational, institutional, industrial and commercial land uses which are required to have or provide twenty (20) or more parking spaces.

- 1.** For small parking areas between twenty (20) and forty-four (44) parking spaces, there shall be one (1) large shade tree for every three thousand (3,000) square feet of total parking area. For larger parking areas, there shall be one (1) large shade tree for every

two thousand (2,000) square feet of total parking area.

- 2.** Landscaped planting areas are to be located within or adjacent to the parking area as tree islands, at the end or parking bays, inside medians, or between rows or cars.
- 3.** There shall be in addition at least one shrub for every one thousand (1,000) square feet of total parking area in all cases. Shrubs must be eighteen (18) inches tall at planting and reach a minimum height of thirty (30) inches in three (3) years.
- 4.** No vehicular parking space shall be farther than fifty (50) feet from a planting area.
- 5.** No more than fifty (50 %) percent of the trees and/or shrubs shall be deciduous.
- 6.** A "Tree" as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed fifteen (15) feet for a small tree and thirty-five (35) feet for a large tree.
- 7.** "Shrubs" shall attain a minimum of thirty (30") inches in height within three (3) years of planting.
- 8.** Landscaping shall be placed in a manner, which meets the intent of this Ordinance, and shall be maintained.
- 9.** Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.

### **ARTICLE XIII PLANNING BOARD**

#### **23.1050. Establishment of Planning Board**

A Planning Board is hereby established. Said Board shall consist of (7) regular members. Members of the Board shall be appointed by the Town Board of Commissioners. The members shall be residents of the Town who are not members of the Town Board of Commissioners. Their initial terms of office shall be for three (3) years, and thereafter, as follows: One (1) member appointed for a term of one (1) year; two (2) members appointed for terms of two (2) years; and two (2) members appointed for term of three (3) years.

#### **23.1051. Proceedings of the Planning Board**

- 23.1051.1** **Members.** The Planning Board shall appoint a secretary and such other subordinates as may be authorized by the Town Board of Commissioners. Meetings of the Board shall be held at the call of the chairman and such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The Board shall keep minutes of the proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and also keep records of its examinations and other official action.



**23.1051.2** **Meeting Minutes.** The Planning Board shall keep minutes of its proceedings (G.S. 160D-308). Additionally, all Planning Board members, before entering their duties, must take an oath of office (G.S. 160D-309).

**23.1051.3** **Conflict of Interest.** Members of the Planning Board shall not vote on advisory or legislative decisions regarding a development regulation where the outcome of the matter being considered is likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning 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 (G.S. 160D-109).

**23.1052. Powers and Duties of the Planning Board (Legislative proceedings)**

**23.1052.1** **Authority.** All applications rezoning requests and text amendments are to be referred to the Planning Board for its review and recommendation to the Town Board of Commissioners (G.S. 160D-604(c), (e)), unless otherwise specified below. Procedures are determined as hereinafter set forth.

**23.1052.2** **Text Amendment.** All petitions shall include:

- a) **Fee.** A fee shall be paid by the applicant to cover the cost of processing and advertising as required by the Town fee schedule.
- b) **Application.** An application shall be submitted stating the section/s that the applicant wishes to modify, along with proposed language and reason for the request. The request will be heard by the Planning Board for a recommendation to the Town Board of Commissioners.
- c) **Recommendation.** The application shall be heard by the Planning Board and a recommendation shall be provided to the Town Board of Commissioners.
- d) **Newspaper Notice.** A legal ad shall be ran in the paper stating their will be a public hearing before the Town Board of Commissioners on the following section/s of the ordinance. The ad shall list the date and time of the meeting and other applicable information. The ad shall be ran in the paper two consecutive weeks, one week not sooner than 10 days and not more than 25 days prior the hearing.
- e) **Planning Board Report.** All recommendations to the Town Board of Commissioners shall be presented by the Zoning Officer, along with a written recommendations either endorsing or denying the proposed amendment. The written recommendation shall include a statement of reasonableness and plan consistency.

- f) **Determination.** The Town Board of Commissioners shall determine if the request is consistent with the Land Use Plan and if it is reasonable and in the best interest of the Town.

**23.1052.3**

**Zoning Map Amendment (Rezoning – Standard and Conditional).** Procedures are determined as hereinafter set forth.

- a) **Application.** The application shall include a legal description of the property involved and the names and addresses of the current owners of the petitioned property and the names and addresses of the abutting property owners. The application shall clearly state the zoning district requested for change. Should said application be a conditional rezoning request, the applicant shall clearly state the conditions that are being requested;
- b) **Fee.** A fee shall be paid by the applicant to cover the cost of processing and advertising as required by the Town fee schedule.
- c) **Mailing Notice.** The owner of affected parcels of land, and the owners of all parcels of land abutting that parcel of land, shall be mailed a letter by the Town, giving notice of the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. Such letter shall be deposited in the mail not sooner than 10 days and not more than 25 days prior the hearing.
- d) **Property Posting.** The Town shall prominently post a notice of the public hearing on the site proposed for rezoning amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within twenty-five days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).
- e) **Newspaper Notification.** A legal ad shall be ran in the paper stating their will be a public hearing before the Town Board of Commissioners on said rezoning request. The ad shall list the date and time of the meeting and other applicable information. The ad shall be ran in the paper two consecutive weeks, one week not sooner than 10 days and not more than 25 days prior the hearing.
- f) **Resubmit Post Denial.** Any proposed zoning map amendment that has been denied by the Town Board of Commissioners may be resubmitted to the Planning Board only after a waiting period of no less than six (6) months from the date of denial.
- g) **Planning Board Report.** All recommendations to the Town Board of Commissioners shall be presented by the Planning Board Chairman or Vice-Chairman, along with a written recommendations either endorsing or denying the proposed change or amendment. The written

recommendation shall include a statement of reasonableness and plan consistency.

- h) Decision.** The Town Board of Commissioners shall form a Land Use plan consistency statement and provide a statement as to whether the request is reasonable and in the best interest of the Town and move to take action on the request.

**23.1052.4**

**Plan consistency.** When adopting or rejecting any zoning text or map amendment, the Town Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Board of Commissioners, that at the time of action on the amendment, the Town Board of Commissioners was aware of and considered the Planning Board’s recommendations and any relevant portions of an adopted land use plan. If amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a “large-scale rezoning” under G.S. 160D-6-2(b), the Town Board of Commissioners statement describing plan consistency may address the overall rezoning and describe how the analysis and polices in the relevant adopted plans were considered in the action taken.

**ARTICLE XIV  
BOARD OF ADJUSTMENT**

**23.1053. Powers and Duties of the Board of Adjustment – Planning Board (Quasi-judicial proceedings)**

**23.1053.01**

**Authority.** A Board of Adjustment is hereby created as provided in Section G.S. 160D-1-9(d) of the General Statutes of North Carolina. Said Board shall consist of the members of the Planning Board.

**23.1053.02**

**Type of Cases.** The Board of Adjustment shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, variances, or any other quasi-judicial decision (G.S. 160D-406).

**23.1053.03**

**Conflict of Interest.** Members of the Board of Adjustment 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 board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D-109(d), (e), (f)).

#### **23.1053.04**

#### **Presentation of Evidence.**

- a) **Standing.** The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D. Objections based on jurisdictional issues may be raised for the first time on judicial review.
- b) **Oaths.** 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. Any person who, while under oath during a proceeding before the Board of Adjustment determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
- c) **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 the issuance of a subpoena, the applicant, local government, and any person with standing under G.S. 160D-1402(c) 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.

**23.1053.05**

**Board Decisions.**

- a) **Evidence Based Decision.** The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board/commission shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board.
- b) **Required Vote.** The concurring vote of four fifths (4/5ths) of the board 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 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 member of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- c) **Effects of Grant of Variance or Reversal or Modification of Administrative Decision.** After the Board of Adjustment approves a variance, or reverses or modifies an order, decision, determination, or interpretation of an administrative official, the appellant or petitioner shall be responsible for obtaining a building permit and/or certificate of occupancy, as applicable, in order to proceed with the development of the subject property. All orders, decisions, determinations, and interpretations made by administrative officials under those procedures shall be consistent with the variance, reversal, or modification granted to the appellant or petitioner by the Board of Adjustment.

**23.1053.06**

**Special Use Permits.** No special use permit shall be granted by the Board of Adjustment unless and until:

- a) **Application.** A complete petition is filed by the applicant stating the reason for the special use permit with an attached site plan and fee paid.
- b) **Mailing Notice.** The Town shall mail notice to the applicant, the owner/s, and adjacent property owners by first class mail. The letter shall include the date, time, location of the meeting and specific information about the request. The notice shall be deposited in the mail

not sooner than 10 days and not more than 25 days prior the hearing. The public hearing shall be conducted as a quasi-judicial hearing and the applicant and Town residents may appear in person or by agent or attorney.

- c) **Property Posting.** The Town shall prominently post a notice of the public hearing on the site proposed for Special Use Permit or on an adjacent public street or highway right-of-way. The notice shall be posted not more than twenty-five days and not less than 10 days prior the hearing. When multiple parcels are included within a proposed Special Use Permit, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).
  
- d) **Conditions.** The Board of Adjustment finds that in the particular case in question the use for which the special use permit is sought meets the criteria specified within in the ordinance and the request will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the area. The Board of Adjustment may designate such conditions in connection with the granting of the special use permit as will, in its opinion, assure that the proposed use will conform to the requirements of this ordinance.
  
- e) **Documentation of Decision.** The board clerk shall provide a documented decision to include the resolution of any contested facts and must apply the applicable standards to the facts of the case. Upon Board Chair signature, the document is filed with the board clerk. The decision is delivered to the applicant by personal delivery, electronic mail or by first class mail. The official delivering the decision shall certify that proper notice of the decision was made. Upon applicant receiving written documentation, should the applicant disagree with the board's decision a period of 30 days from the date the written notice was received is open to file an appeal with Superior Court in the nature of certiorari.

**23.1053.07 Variances.** Any person or entity applying for a variance shall include a site plan showing the requested variance and pay fee established on the Town fee schedule. The applicant shall make written application to the Board of Adjustment indicating the following.

**Finding of Facts.**

- a) That special conditions and circumstances exist that are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
- b) That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- c) That said circumstances do not result from the actions of the applicant;
- d) That no non-conforming use of neighboring land, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.

**23.1053.08 Variance Hearing.** The Board of Adjustment shall hearing finds of fact from the applicant and opposing parties to determine if said variances based on the terms of this Ordinance, will not be contrary to the public interest where owing to special conditions the literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance shall not be approved by the Board of Adjustment unless and until:

- a) **Mailing Notice.** The Town shall mail notice to the applicant, the owner and adjacent property owners by first class mail. The letter shall include the date, time, and location of the meeting and specific information about the request. The public hearing shall be conducted as a quasi-judicial hearing and the applicant and Town residents may appear in person or by agent or attorney; and,
- b) **Property Posting.** The Town shall post signs on the property that is involved in the variance request. The notice shall be posted not more than twenty-five (25) days and not less than ten (10) days prior to the hearing.
- c) **Findings of Fact.** The Board of Adjustment shall make findings as to whether the requirements of Section 23.1053.07, (a) through (d) have been met for a variance. All findings have to have a positive affirmation to pass the request.
- d) **Minimum Requirement.** The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance or denial of the variance. If a variance is granted it shall be the minimum one that will make possible the reasonable use of the land, building, or structure.
- e) **Consistency.** The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general

purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- f) **Conditions.** In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under **Section 23.1056.** of this ordinance.
- g) **No Use Variances.** Under no circumstance shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or implication prohibited by the terms of this ordinance in said district.
- h) **Documentation of Decision.** The board clerk shall provide a documented decision to include the resolution of any contested facts and must apply the applicable standards to the facts of the case. Upon Board Chair signature, the document is filed with the board clerk. The decision is delivered to the applicant by personal delivery, electronic mail or by first class mail. The official delivering the decision shall certify that proper notice of the decision was made. Upon applicant receiving written documentation, should the applicant disagree with the board's decision a period of 30 days from the date the written notice was received is open to file an appeal with Superior Court in the nature of certiorari.

**23.1053.09.** **Administrative Decision Appeal.** All questions arising in connection with the enforcement of this ordinance shall be presented to the Board of Adjustment; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law.

Timely appeals of a notice of violation or other administrative decision shall stay enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with N.C.G.S. § 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom.

**23.1053.10.** **Administrative Appeal Hearing.** Any person who has standing under G.S. § 160D-1-2 or within the Town may appeal a decision to the Board of Adjustment. No appeal shall be heard by the Board of Adjustment unless and until:

- a) **Administrative Written Determination.** The applicant shall submit record of an official final binding order, requirement or determination in



the form of a written ordinance interpretation, permit denial or notice of violation issued by the Zoning Officer.

- b) Appeal Application.** 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. The owner or other party shall have 30 days from receipt of the written notice of the determination 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 administrative determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to G.S. 160D-4-3(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (G.S. 160D-405(d)).
- c) Mailing Notice.** The Town shall mail notice to the applicant, the owner/s, and adjacent property owners by first class mail not sooner than 10 days and not more than 25 days prior the hearing. The letter shall include the date, time, location of the meeting and specific information about the request. The public hearing shall be conducted as a quasi-judicial hearing and the applicant and Town residents may appear in person or by agent or attorney.
- d) Property Posting.** The Town shall prominently post a notice of the public hearing on the appeal site or on an adjacent public street or highway right-of-way. The notice shall be posted not more than twenty-five days and not less than 10 days prior the hearing. When multiple parcels are included within an appeal, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).
- e) Continuation of Hearing.** The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- f) Presentation of evidence.** The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.
- g) Written Decision.** The board clerk shall provide a documented decision to include the resolution of any contested facts and must apply the

applicable standards to the facts of the case. Upon Board Chair signature, the document is filed with the board clerk. The decision is delivered to the applicant by personal delivery, electronic mail or by first class mail. The official delivering the decision shall certify that proper notice of the decision was made. An appeal from the decision of the Board of Adjustment may be made by an aggrieved party and shall be made to Superior Court in the nature of certiorari. Any such petition shall be filed with the Superior Court no later than 30 days after the applicant receives the written copy of the decision of the Board of Adjustment.

## **ARTICLE XV LEGAL PROVISIONS**

### **23.1054. Interpretation, Purpose and Conflict**

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provision of this ordinance shall govern, provided that nothing in the ordinance shall be construed to amend or repeal any other existing ordinance of the Town.

### **23.1055. Severability**

This Ordinance and the various parts, sections, divisions and clauses thereof are hereby declared to be severable. Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration 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.

### **23.1056. Remedies and Civil Penalties**

**23.1056.1**      **Violation.** In addition to those remedies provided in North Carolina General Statutes 14-4 and 160A, as amended and otherwise as law provided, whenever, by the provisions of this Ordinance, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land and water, or on the erection or

removal or alteration of a structure, a failure to comply with such provisions shall constitute a violation of this Ordinance.

**23.1056.2**

**Liability.** The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance shall be held responsible for the violation and be subject to the penalties and remedies provided herein.

**23.1056.3**

**Procedures Upon Discovery of Violation.** Upon the determination that any provision of this Ordinance is being violated, the Planning Board or designated official shall send, within five (5) working days, a written notice by registered mail to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Planning Board discretion.

The final written notice, which may also be the initial notice, shall state the action the Planning Board or designated official intends to take, if the violation is not corrected, and shall advise that the Planning Board may seek enforcement remedy without prior written notice.

**23.1056.4**

**Civil Penalties.** Violation of any provision of this Ordinance shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the Town in a civil action. Citation shall be in writing, signed by the Zoning Officer and shall be delivered by certified mail to the offender either at their residence, or at their place of business, or at the place where the violation occurred. Each day that a violation continues to exist after being cited shall constitute a separate and distinct offense without multiple citations being issued.

Adopted this the  
Signed this the

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X, Mayor  
Town of Rhodhiss

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Attest:





Approved by Planning Board on

X,  
Clerk to the Town of Rhodhiss