TOWN OF CEDAR POINT
PLANNING BOARD MEETING
6:30 P.M. - TUESDAY, MARCH 8, 2019
CEDAR POINT TOWN HALL

1. Call to Order
2. Roll Call
3. January 8, 2018 Meeting Minutes
4. Old Business
    - Review and Discuss Attorney's Draft of the Unified Development Ordinance (UDO)
5. Public Comments
6. Comments from Board Members
7. Adjourn

Next meeting Tuesday, April 2, 2019 at 6:30 P.M.

Tab 3 January 8, 2019 Minutes

Town of Cedar Point
Planning Board Meeting
January 8, 2019

The Town of Cedar Point Planning Board held its regularly scheduled monthly meeting on Tuesday, January 8, 2019 at 6:30 PM. Chairman Heironimus determined a quorum to be present and called the meeting to order.

PRESENT: Vice Chairman Williams, Members Perry, Riggs, and Zimmerman, Town Administrator Seaberg, Town Clerk Calhoun and public

ABSENT: Chairman Heironimus, Member Dennis

Chairman Heironimus was unable to attend this evening; Vice Chairman Williams presided over the meeting.

The Minutes from the November 13, 2018 meeting were presented for consideration and approval. Member Zimmerman made a **Motion** to accept the Minutes of November 13, 2018 with no changes. Member Bragg seconded. The Motion carried unanimously.

A Rezone Request (RZ-18-006) was next presented for Board review. The request is to rezone a parcel located at 430 Sherwood Avenue from R-15 Single Family Residential District to B-1 General Business District. Mr. Seaberg presented a brief overview of the application. Mr. Seaberg reminded the Board that there is also a Consistency Statement that must be approved, approved with additional requirements or disapproved. The Statement reads as follows:

The Planning Board of the Town of Cedar Point hereby finds that the proposed Official Zoning Map amendment application Rezoning Application RZ-18-006: a request to rezone a 1.152 acre portion of Tax Parcel 5374- 1176-1286, located at 430 Sherwood Avenue, from R-15 Single Family Residential District to B-1 General Business District **is** consistent with the Town of Cedar Point Comprehensive Plan adopted November 27, 2012 because the parcel in question being located within an **Existing Core Area, Central Business Corridor Overlay District, and a Business Corridor Land Use Classification** as designated on the Town of Cedar Point Future Land Use Map (2012). These Future Land Use designations **do** encourage the zoning district at which the applicant is proposing the parcel in question to be located within.

Further, the Board finds that the proposed Official Zoning Map amendment application: Rezoning Application RZ-18-006: a request to rezone a 1.152 acre portion of Tax Parcel 5374-1176-1286, located at 430 Sherwood Avenue, from R-15 Single Family Residential District to B-1 General Business District **is** reasonable and in the public interest because an **Existing Core Area, Central Business Corridor Overlay District, and a Business Corridor** Future Land Use designation **do** encourage the zoning designation at which the applicant is proposing.

There were no public comments concerning the rezone request.

Member Bragg asked to view the aerial view of the property to be clear which portion of the parcel was part of the rezone request.

Member Zimmerman believes it makes sense to rezone it to B-1 since it is in the Central Business Overlay District.

Member Riggs made a **Motion** to approve the Rezone Request (RZ-18-006), with its accompanying Consistency Statement. Member Perry seconded. The Motion carried unanimously.

The second New Business item consisted of a Commercial Site Plan Review for Performance East Motorsports. Mr. Seaberg presented a brief overview of the site plan, which encompasses 5 acres of property.

Vice Chair Williams opened the floor to public comments.

Mr. Paul Garavaglia and Mrs. Diana Mazza both expressed concern over stormwater runoff that would collect at the end of Masonic Avenue at Little Bay. Mr. Seaberg pointed out that there is no drainage plan that could keep up with the heavy rainfall Cedar Point has had this year.

Member Perry explained that there is a process involved when completing the stormwater permit and the engineering requirements surrounding it.

Member Zimmerman was unsure as to what the Planning Board was approving; he understood it to be a grassy lot for boat storage. He was also concerned over the lack of any LID (Low Impact Development) measures being taken at this location. Mr. Alan Bell, surveyor for the property, provided a photograph of the Performance East Goldsboro location. Member Riggs assured the Board members that he knows the business very well, and they are a well-established business in eastern North Carolina. There should be no concern over the Cedar Point location's appearance.

Member Bragg made a **Motion** to approve with staff recommendations. However, Member Zimmerman moved that the Motion be amended to include clarity on boat storage and LID construction. (Member Zimmerman felt that the original site plan overview implied that this location would be used for boat storage, when in fact the boats being housed there would be boats for sale.) The Motion is as follows: Member Bragg made an amended **Motion** to approve the Commercial Site Plan provided the applicant gives clarity to boat storage as well as consideration for LID plans. Motion carried unanimously.

Vice Chair Williams opened the floor to Member Comments.

Member Bragg asked about cell towers and if permitting was required through the Town. Mr. Seaberg explained that only certain instances now required any permitting through the Town. Statutorial changes did away with the previous statutorial requirements.

Member Bragg also asked where citizens may go concerning stormwater accumulation. Mr. Seaberg assured him that contact information would be given to him for the organization handling that.

There being no further business to discuss, the meeting was adjourned. Member Perry made a **Motion** to adjourn the meeting. Member Zimmerman seconded. The meeting was adjourned at 7:38 PM.

_____ _____

T.J. Williams, Vice Chairman Jayne Calhoun, Town Clerk

Tab 4 UDO Draft

TOWN OF CEDAR POINT

Mayor
Scott Hatsell

Mayor Pro-Tem
Pam Castellano

Board of Commissioners
John Nash
David Winberry
Frankie Winberry

Town Administrator
Christopher D. Seaberg

Mailing Address
PO Box 1687
427 Sherwood Avenue
Swansboro, NC 28584
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MEMORANDUM

TO: Cedar Point Planning Board

FROM: Christopher D. Seaberg, CFM
Town Administrator

DATE: March 5, 2019

SUBJECT: **Review of Town Attorney recommend changes of the Unified Development Ordinance**

Please find enclosed with this memorandum recommended changes to the Unified Development Ordinance recommended last year. Currently, we have comments for chapters 1-6. We anticipate receiving the remaining 3 chapters (chapter 7-9) over the weekend and will forward them to you once received. Please review the email correspondences from the Town Attorney while reviewing these changes. They provide a good basis for the changes suggested.

Chris Seaberg

From: Neil Whitford <Nwhitford@kirkmanwhitford.com>
Sent: Monday, December 10, 2018 3:32 PM
To: Chris Seaberg
Subject: UDO
Attachments: CP UDO Chapter 2 NBW redlined.docx; CP UDO Chapter 1 redlined NBW.docx; CP UDO Chapter 3 clean NBW.docx; CP UDO Chapter 3 redlined NBW.docx

Chris:

Attached in redlined format, and for Chapter 3, also in cleaned up version, are the first three chapters of the UDO.

While I do think the original rough draft does a good job of touching almost all bases, as I got into my edits, I found some inconsistencies and problems with sequencing applications (particularly in Chapter 3). Also, I have some questions about why some provisions were put where they were. For example, why is Conditional Zoning District rezonings put in Chapter 3 rather than a chapter on rezoning – and now that I say that, where is normal re-zoning addressed? (Without an index, it is hard to navigate through the chapters.)

Here are some comments:

- When you see major new text and major deletion of old text, it is usually because I am moving things around for better flow.
- We need to try and use self contained sections for specific topics. For example, if we're dealing with a variance, the full variance procedure should be in one section and neither you, the applicant, nor the board need to be forced to look all over the UDO to find snippets of procedure that apply to variances.
- The rough draft duplicates procedure in Chapters 2 and 3 and when I saw that, I moved them to Chapter 3.
- If the mayor and board liaison to the PB are members of the Technical Review Committee, it can affect their impartiality on special use permit applications, subdivision maps, and site plans for commercial uses. We know that by definition a special use permit application is a quasi-judicial matter, but subdivision and site plan review can also be quasi-judicial. While it may be very efficient to have those two serve on the TRC, maybe it is best that they do not.
- In Chapter 3, 3.7 refers to "Certificate of Compliance," and 3.13 refers to a "Zoning Compliance Permit." Aren't they the same thing, and if so, we can delete 3.7.

I'll work on revisions to the other chapters in December. In looking at my notes on my first read through, I don't think they will be nearly as detailed as the revisions in Chapter 3 – which greatly bogged me down.

Neil

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whom they are addressed. If you are not the intended recipient, please do not read, copy or retransmit this communication but destroy it immediately. Any unauthorized dissemination, distribution or copying of this communication is strictly prohibited.

Chapter 1 – General Provisions

1.1 OFFICIAL TITLE

This ordinance shall be officially known as the "Unified Development Ordinance of the Town of Cedar Point, North Carolina" and may be referred to as the "Unified Development Ordinance" or "this ordinance" or the "UDO."

1.2 EFFECTIVE DATE

This UDO was adopted on _____, 2018 and became effective on _____, 2018.

1.3 AUTHORITY

A. **GENERAL AUTHORITY**
This Ordinance consolidates the Town's zoning, subdivision, and other land use regulatory authority and is adopted pursuant to the authority contained in Chapter 160A of the North Carolina General Statutes; and the Town of Cedar Point Charter, as amended.

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

1.4 GENERAL PURPOSE AND INTENT

This UDO is adopted to preserve, protect, and promote the public health, safety, and general welfare of residents and businesses in the Town. More specifically, this UDO is adopted to achieve the following objectives:

A. Improve the built environment and human habitat;

B. Mitigate the menaces to life and property from the effects of storm attack and flooding;

C. Conserve and protect the Town's natural beauty and setting, including trees and cultural and historic resources;

D. Encourage responsible development practices that conserve energy, land, and natural resources;

E. Promote development patterns that support safe, effective, and multi-modal

transportation options, including auto, pedestrian, and bicycle and therefore minimize vehicle traffic by providing for a mixture of land uses, walkability, and compact community form;

F. Promote the greater health benefits of a pedestrian-oriented environment;

G. Reinforce the character and quality of neighborhoods;

H. Protect and promote appropriately located commercial and industrial activities in order to preserve and strengthen the Town's economic base;

I. Ensure that adequate facilities are constructed to serve new development;

J. Provide for orderly growth and development of suitable neighborhoods with adequate transportation networks, drainage and utilities and appropriate building sites; and

K. Save unnecessary expenditures of funds by requiring the proper initial construction of transportation networks, sidewalks, drainage facilities, and utilities;

L. Improve the effects developments, both proposed and existing, have on the White Oak River and Bogue Sound;

M. Promote water access for any waterfront developments.

1.5 APPLICABILITY AND JURISDICTION

A. GENERAL APPLICABILITY

This UDO applies to all land, water, buildings, structures, and uses located within the corporate limits and the extraterritorial jurisdiction of the Town of Cedar Point, North Carolina. To the extent allowed by law, the provisions of this UDO also applies to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, County, State, or Federal government agencies.

B. REQUIRED CONFORMANCE TO PROVISIONS

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

1.6 RELATIONSHIP WITH OTHER LAWS

A. **PRIVATE PROPERTY RIGHTS**
Neither this Ordinance, nor any material included herein by reference nor material used for the administration of this Ordinance, are intended to, nor do they take any property, property right, nor property use, nor convert any of these to public use except by due process of law.

B. **CONFLICTS WITH OTHER LAWS, ORDINANCES OR REGULATIONS**

1. If any provisions of this UDO are inconsistent with similar provisions of State or Federal law, the more restrictive provision shall control, to the extent permitted by law.

2. Conflicts and duplications among portions of this UDO shall be resolved in favor of the more stringent regulation.

3. The adoption of this Ordinance shall have the ~~following~~ effect specified in ~~(~~Section 1.6.C~~)~~ upon violations of the previous ordinance that existed on the effective date of this Ordinance.

C. **CONFLICTS WITH PRIOR ORDINANCES**

1. If the circumstances that constituted the violation under the previous ordinance do not constitute a violation under this Ordinance, then no further punitive or corrective action shall be taken with respect to the previous violation.

~~1.~~2. If the situation that constituted the violation under the previous ordinance continues to constitute a violation under this Ordinance, then appropriate corrective or punitive action may be taken under this Ordinance.

~~2.~~3. If a non-conforming situation or condition was created under the previous ordinance and it failed to be corrected, and if it is still not permissible under this Ordinance, then passage of this Ordinance shall not prevent enforcement to terminate the non-conforming situation, even if termination would not be required under this Ordinance.

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1.7 SEVERABILITY

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It is expressly declared that this UDO and each section, subsection, sentence, and phrase would have been adopted regardless of whether one or more other portions of the UDO are declared invalid or unconstitutional.

A. If any section, subsection, sentence, or phrase of this UDO is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason, the remaining portions of this UDO shall not be affected.

B. If any court of competent jurisdiction invalidates the application of any provision of this UDO, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.

1.8 ZONING MAP

A. GENERALLY

The Official Zoning Map designates the location and boundaries of the various base zoning and overlay zoning districts established in this Ordinance. The Official Zoning Map shall be kept on file in Town Hall and is available for public inspection during normal business hours. The original official version of the map shall be certified by the Town Administrator. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the town, and shall only be amended in accordance with this Ordinance. In accordance with N.C. Gen. Stat. § 160A-22, the Town Clerk shall certify the Official Zoning Map for use as evidence in a court of law.

B. INCORPORATED BY REFERENCE

The Official Zoning Map, and all the notations thereon, is incorporated herein by reference and made part of this Ordinance.

C. INTERPRETATION OF OFFICIAL ZONING MAP BOUNDARIES

1. The Town Administrator, or his ~~their~~ designee shall be responsible for interpretations of the Official Zoning Map in accordance with the following requirements:

    (a) Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.

    (b) Boundaries shown as approximately following a property line shall be interpreted as following the property line, as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving ten feet or less, the zoning boundary shall be interpreted as moving with the property line.

    (c) Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;

    (d) Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as

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following the corporate limits or boundary as they existed when the boundary was established.

(e) Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such. Distances not specifically indicated on the official zoning maps shall be determined by the scale of the maps;

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(f) Boundaries of districts shall be interpreted by the Town Administrator or his ~~their~~ designee and may be appealed to the Board of Adjustment ~~BOA~~ where physical or cultural features existing on the ground are at variance with those shown on the official zoning maps, or in other circumstances not covered by subsections (a) through (e) above;

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(g) Where a lot is platted, subdivided, or deeded to create a new lot subsequent to the adoption of a district boundary so that the district boundary divides the lot, the allowable uses of the entire lot shall be those specified for the most restrictive zoning district in which any portion of the lot is located. Said portion may be used for a permissible use in that district.

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2. If the specific location of a depicted boundary cannot be determined from notations on the Official Zoning Map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.

3. Where the actual locations of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances not covered by this subsection, the Town Administrator shall have the authority to interpret the district boundaries. Appeals of the Town Administrator or their designee's decision shall be reviewed by the Board of Adjustment in accordance with *Section 3.12, APPEALS*.

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D. CHANGES TO OFFICIAL ZONING MAP

Changes made in zoning district boundaries, including requests for a rezoning, or other matters portrayed on the Official Zoning Map shall be made in accordance with the provisions of Chapter 2 of this Ordinance. Changes shall be entered on the Official Zoning Map by the Town Administrator or his ~~their~~ designee promptly after the amendment is approved by the Board of Commissioners. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Town Administrator or his ~~their~~ designee may enter on the Official Zoning Map notations reflecting the ordinance wording. The Town Administrator or his ~~their~~ designee shall maintain copies of superseded versions of the Official Zoning Map for historical reference.

1.9 TRANSITIONAL PROVISIONS

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A. VIOLATIONS CONTINUE

Subject to the specific provisions of *Section 1.6* above, any violation of the previous zoning regulations, subdivision regulations, or any other land use regulation shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes. Violations of this Ordinance shall be subject to the penalties set forth in *Chapter 4, ENFORCEMENT*, and any other applicable ordinances, laws, or statutes, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

B. COMPLETE APPLICATIONS

1. Any development application submitted and accepted as complete before effective date, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. No application shall be considered complete unless and until the entire application fee has been paid in accordance with the current fee schedule. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of *Chapter 8, NONCONFORMITIES*.

2. Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time the application is accepted as complete. If a development is approved, but does not commence and continue within the required time frames, it shall expire and future development of the property shall be subject to the requirements of this Ordinance.

3. An applicant with a pending complete application accepted before the effective date may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

C. APPROVED APPLICATIONS

Any development approval granted before the effective date of this Ordinance shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If the prior approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development application for the site shall be subject to the

procedures and standards of this Ordinance. To the extent, a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of *Chapter 8, NONCONFORMITIES*.

D. NONCONFORMITIES

If any use, structure, lot, or sign legally existed on the effective date, but does not fully comply with the standards of this Ordinance, then that use, structure, lot, or sign shall be considered nonconforming under this Ordinance and shall be controlled by the provisions of *Chapter 8, NONCONFORMITIES*.

Chapter 2 – Administration

2.1 REVIEW AND DECISION-MAKING BODIES

The following bodies and town staff have powers and responsibilities in administering and reviewing applications for development under this Ordinance as provided by specific provisions herein:

- Town Board of Commissioners;
- Planning Board;
- Board of Adjustment; and
- Town Administrator and/or his ~~their~~ designees.
- Technical Review Committee

2.2 TOWN BOARD OF COMMISSIONERS

A. POWERS AND DUTIES

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

1. Hear and decide applications for commercial site plans, amendments to the text, schedules, major subdivisions, and zoning map amendment portions of this Ordinance

2. Hear and decide applications for Special Use Permits, as specified in this Ordinance

3. Make the necessary appointments to the Planning Board and Board of Adjustment.

~~3.~~4. Provide by appropriation, funds for the administration of this Ordinance.

5. Such other actions as are, or may be, authorized by N.C.G.S. Chapter 160A and the Town Charter and Code of Ordinance.

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B. CONFLICTS

When the the Board of Commissioners is acting in a quasi-judicial capacity on an application described in this Ordinance, no Board members shall participate in or vote on such matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's

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

~~4.~~

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2.3 BOARD OF ADJUSTMENT

A. ORGANIZATION OF ZONING BOARD OF ADJUSTMENT

The Cedar Point Board of Adjustment Composition and Terms of Office can be found in Division IV **§ 2-25** of the Town of Cedar Point Code of Ordinances.

1. Composition and Term of Office. The Board of Adjustment shall consist of five (5) regular members~~.~~, two (2) alternate members, and one (1) Extraterritorial Jurisdiction ("ETJ") member. The five (5) regular members and the two (2) alternate members must be residents of the town and shall be appointed by the board of commissioners. The one (1) ETJ member shall reside in the Town's Extraterritorial Jurisdiction and shall be appointed by the Carteret County Board of Commissioners or by the Cedar Point Board of Commissioners if the County Commissioners fail to make the appointment within the time permitted by law. Board members will have a three-year term. The ETJ member will vote only on matters arising in the ETJ.~~;~~ If a regular board member cannot participate in all, or part of, a meeting, an alternate member, as designated by the Chairman, will serve in the place and stead of the regular member who is not participating. The Chairman will attempt to rotate substitution duties between the two alternate members.

2. Rules of Procedure**.** The Board of Adjustment will adopt rules and regulations in accordance with N.C.G.S.160A-388 for its own operation necessary to carry out the provisions of this Ordinance. The Town Clerk will maintain copies of the adopted rules for public information. The Board of Adjustment shall elect a Chairman, Vice-Chairman from its membership who shall serve for a one (1) year term or until his or her successor are elected. The Vice-Chairman in the absence of the Chairman may administer oaths and subpoena witnesses. The Board shall also appoint a Secretary who may be a Town Official, a contract appointee, or member of the Zoning Board of Adjustment.

3. Duties of the Board of Adjustment. The Board of Adjustment is assigned a certain number of specific duties by this ordinance. Those duties are listed below.

   ~~(a) **Interpretation of the Ordinance.** The Board of Adjustment is responsible for interpreting the provisions of the ordinance if there is a question about the meaning or application of a provision. Once the Board has made an interpretation on an issue, the zoning Enforcement Officer will consistently use that interpretation in the administration of the ordinance. The Board may~~

~~also ask that the ordinance be amended to clarify a problem with the ordinance that has come to the Board's attention.~~

~~(b)~~(a) **Administrative Review.** The Board of Adjustment will hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer. Any person who feels that his/her legal or property rights may have been affected, ~~or any officer, department,~~ or the B~~b~~oard of Town Commissioners may file such an appeal within 30 days of the decision of the Zoning Enforcement Officer.

(b) **Variance of the Ordinance Requirements.** The Board of Adjustment will hear and decide appeals for variances from the requirements of this ordinance as listed in Section 3.11.

(c) **Other jurisdiction.** Unless specifically delegated to another body in this Ordinance, the Board of Adjustment shall have jurisdiction to consider and act on other matters delegated to boards of adjustment in N.C.G.S. §160A-388.

~~B. ACTIONS OF THE BOARD~~

~~The concurring vote of four-fifths of the members of the Board shall be necessary to grant a variance request. A majority vote of the members shall be required to reverse any order, requirement, decisions or determination of any administrative official charged with enforcement of the ordinance, to decide in favor of the person(s) making an appeal, or determine any other quasi-judicial matter other than a variance. The decisions of the Board of Adjustment will state the findings of fact and conclusions of law made by the Board to reach its decision. The chairman of the Board of Adjustment will cause the Board's decision to be reduced to a written document and signed by the chairman. The decision of the Board shall be served by the Town Clerk by personal delivery, electronic mail, or by first-class mail on the appellant, applicant, property owner, or any person who has submitted a written request for a copy, prior to the date the decision becomes effective.~~

C. **MINUTES.**

The Board of Adjustment will keep minutes of its hearing and record the votes of each member.

D. INCORPORATION OF STATUTORY PROVISIONS

The provisions of N.C.G.S. §160A-388 shall apply to all proceedings of the Board of Adjustment. The provisions of this Section 2.3 are supplemental to the provisions of the statute and any provision herein that exceeds the requirements of

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N.C.G.S. §160A-388 shall apply as long as the minimum requirements of the statute are met.

~~C. APPEALS AND HEARINGS~~

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~~After notice of appeal , variance, or special use is received, the Board of Adjustment will hold a public hearing within 36 days from the filing of such notice. All administrative papers and other information relating to an appeal, special use permit, or variance must be submitted to the Town Administrator by the appellant. The Board will give notice of the time, place, and subject of its hearings to the person(s) making the request. The applicant shall give notice to the owners of abutting properties. Proof of notification shall be required in advance of the Board of Adjustment meeting.~~

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~~The Board will keep minutes of its hearing and records of the votes of each member.~~

~~D. ACTIONS OF THE BOARD~~

~~Any decision of the Board of Adjustment will state the reasons and the findings of fact and conclusions of law made by the Board to reach its decision. The concurring vote of a four-fifths of the members of the Board shall be necessary to grant a variance request. A majority of the members shall be required to reverse any order, requirement, decisions or determination of any administrative official charged with enforcement of the ordinance, to decide in favor of the person(s) making an appeal, any special use permit request or any other quasi-judicial matter. Any decision of the Board of Adjustment will state the reasons and the findings of fact and conclusions of law made by the Board to reach its decision. The Board of Adjustment shall inform the parties involved of the decision and the reasons and finding of fact in writing. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.~~

~~The decision of the Board shall be served by the Town Clerk by personal delivery, electronic mail, or by first-class mail on the appellant, applicant, property owner, or any person who has submitted a written request for a copy, prior to the date the decision becomes effective.~~

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~~E.~~ **E. REHEARING**

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The Board of Adjustment will not re-hear a matter except on a four-fifths favorable vote of the members for good cause shown. Motions or petitions for a re-hearing must be served by the Town Clerk on all parties entitled to notice of the original

hearing. ~~refuse to hear an appeal or application for a variance that has been previously denied if it finds that there have been no substantial changes in the conditions, circumstances, or evidence relating to the matter.~~

F. CONSIDERATION OF SUBSTANTIALLY THE SAME MATTER

The Board of Adjustment will not consider a matter that involves substantially the same issues previously decided for a specific parcel of property except (a) after the passage of one year from the previous decision.

~~E.~~G FEES

Petitions and applications ~~for appeals~~ to be considered by the Board of Adjustment must be filed with the Town Administrator or Town Clerk and must be accompanied by the appropriate fee in accordance with the Town Fee Schedule.

~~**F. APPEALS OF THE DECISION OF THE ZONING BOARD OF ADJUSTMENT**~~

~~Any person or persons aggrieved by a decision of the Board may appeal the decision of the Board of Adjustment to the Superior Court of North Carolina. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (c) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.~~

~~G.~~ **H. CONFLICTS**

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

2.4 PLANNING BOARD

A. POWERS AND DUTIES

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The Planning Board shall have the following powers and duties:

1. Prepare plans and to coordinate the plans of the town and those of others so as to bring about a coordinated and harmonious development of the area;

2. Prepare, amend, and revise a comprehensive and coordinated plan for the physical development of the area;

3. Make recommendations to the board of commissioners as to the establishment of principles and policies for guiding action in the development of the area;

4. Prepare and recommend ordinances promoting orderly development of the area along the lines indicated in the Comprehensive Plan including zZoning and sSubdivision regulations;

5. Initiate proposals for amendment of this Unified Development Ordiannce~~Zoning and of Subdivision regulations~~ based upon its studies and the Comprehensive Plan;

6. Review and make recommendations to the Board of Commissioners concerning all proposed amendments to this Unified Development Ordinance ~~the Zoning and Subdivision regulations~~;

7. Determine whether specific proposed developments referred to it by governmental or private agencies in the area conform to the principles and requirements of the Comprehensive Plan for the area as well as this Unified Development Ordinance ~~the town Zoning and Subdivision regulations~~ and to make recommendations concerning them;

8. Review development proposals concerning the use of property for commercial, industrial, or institutional uses and make a formal recommendation as to the approval of such proposals to the Board of Commissioners.

9. Keep the Board of Commissioners and the general public informed and advised as to these matters;

10. Perform any other duties which may lawfully be assigned to it; and

11. Perform any of the actions authorized for municipal planning boards by § 160A Article 19 of the General Statutes.

B. COMPOSITION; TERMS; VACANCIES; ATTENDANCE OF MEMBERS; EXTRATERRITORIAL MEMBER.

1. The planning board shall be composed of seven (7) members, who shall be

residents of the town and shall be appointed by the Board of Commissioners. The members shall be appointed for a term of three (3) years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the planning board is considered a prerequisite for the maintenance of membership on the Planning Board.

2. In addition to the seven (7) regular members of the Planning Board, one (1) member shall be appointed to represent the Town's Extraterritorial Jurisdiction (ETJ) and one (1) member shall be appointed as the Town's Extraterritorial Jurisdiction (ETJ) alternate representative. Such additional member(s) shall be a resident of the county and shall be appointed by the Carteret County Board of Commissioners. If the County Board of Commissioners fails to make such appointment within ninety (90) days after receiving a resolution from the Cedar Point Board of Commissioners requesting that the appointment be made, the Cedar Point Board of Commissioners shall make the appointment. The appointment shall be for a term of three (3) years. The ETJ member shall function and vote only with regard to matters within the Town's Extraterritorial Jurisdiction and shall not be eligible to serve as an officer of the Planning Board. ~~for office.~~

C. STAFF

The Town Administrator or his ~~their~~ designee shall provide staff support to assist the Planning Board in carrying out its duties.

D. CHAIRMAN; OFFICER; RULES; RECORDS; MEETINGS; QUORUM

The planning board shall elect a chairman, create, and fill such offices as it may determine. The term of the chairman and other officers shall be one (1) year, with eligibility for reelection. The planning board shall adopt rules for transaction of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The planning board shall hold at least one (1) meeting monthly as long as there items for consideration and all of its meetings shall be open to the public. There shall be a quorum of four (4) members for the purpose of taking any official action required by this division.

E. CONFLICT OF INTEREST.

Though acting only in advisory role, no member of the Planning Board shall vote on any matter being considered by the board in which the member or any of his immediate family members have a personal or financial interest. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

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- **2.5 TECHNICAL REVIEW COMMITTEE**

A. POWERS AND DUTIES

The technical review committee shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:

1. To review and comment on all plans and applications for special ~~conditional~~ use permit;

2. To review and comment on all preliminary plats for major subdivision;

3. To review and comment on modifications to the subdivision standards;

4. To review and comment on all plans and applications for proposed commercial and/or industrial uses;

~~4.~~5. To review and comment on all proposed zoning map amendments and text amendments to this Ordinance;

~~5.~~6. To review and comment on all plans and applications for conditional zoning requests;

~~6.~~7. To assist town staff with any other plan reviews, land development studies, or other land development related matters as necessary;

~~7.~~8. Such additional powers and duties as may be set forth for the technical review committee by the Cedar Point Board of Commissioners.

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B. COMPOSITION

1~~.~~. The technical review committee of the city shall consist of the Town Mayor, Board of Commissioners Planning Board Liaison, Planning Board Chair, Town Administrator, and Fire Inspector.

2. Representatives of the West Carteret Fire and EMS Department, Carteret County Sheriff Department, Carteret County Building Inspections, North Carolina Department of Transportation, Carteret-Craven EMC, West Carteret Water Corporation, other governmental agencies and other area utilities may be invited by the technical review committee to comment on specific proposals under consider by the committee. ~~serve on the technical review committee in an ex-officio capacity. Representatives of city departments shall be appointed by the city manager, representatives of area utilities shall be appointed by that utility and representative of the tree commission shall be appointed by the tree commission or public works director.~~

~~2.~~3. The Town Administrator or his/her designee shall conduct the meetings of the committee in accordance with the established rules and procedure**s.**

C. **MEETINGS:** The technical review committee shall hold a meeting as needed.

D. **FAILURE TO MEET OR COMMENT**. The committee's comments are advisory only. The failure of the committee to meet, consider an application, or to comment has no consequence on action of the Board of Commissioners.

~~C.~~

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Chapter 3 – Administrative Procedures

3.1 ADMINISTRATIVE OFFICIAL

A. The Town of Cedar Point shall administer and enforce this ordinance. The Town may be provided with the assistance of such other persons as the Board of Commissioners may direct.

B. If the Town finds that any of the provisions of this ordinance are being violated, the Town shall perform enforcement proceedings as listed in Section 4.7 of this ordinance.

3.2 ZONING AND BUILDING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, or structurally altered without a Zoning Permit issued by the Town Administrator or ~~their~~his designee and a Building Permit, if required, issued by the ~~a certified~~ Building Inspector. No zoning or building permit shall be issued except in conformity with the provisions of this ordinance, the North Carolina State Building Code, and applicable federal, state, and local regulations. The Town Administrator or ~~their~~his designee may issue a Zoning Permit when it has been shown that the provisions of this ordinance, the North Carolina State Building Code, and applicable federal, state, and local regulations have been met. The Building Inspector may issue a Building Permit when it has been shown that the provisions of this ordinance, the North Carolina State Building Code, and applicable federal, state, and local regulations have been met. A fee for Zoning & Building Permits is required, which shall be in accordance with a regularly adopted fee schedule of the Town or County. Does the county set the building inspection fee?

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3.3 SITE PLAN REVIEW

A. INTENT

It is the intent of this section to address the specific conditions and standards of evaluation for the review of site plans.

B. APPLICABILITY

Site plans are required for all uses when listed as permitted or special uses within a district. Multifamily, Commercial, Industrial, and Institutional site plans must be reviewed by the Planning Board and approved by the Board of Commissioners before Zoning and Building Permits may be issued. The applicant shall receive a written notification of the outcome or final decision by the Board of Commissioners at the conclusion of the review process.

C. **SITE PLAN REQUIREMENTS** – Each site plan submittal must follow the applicable requirements set forth in this Ordinance.

D. **DIMENSIONAL REQUIREMENTS -** Dimensional requirements and development standards shall be in accordance with the zoning district in which the proposed development is to be located.

E. **REVIEW AND APPROVAL BY BOARDS -** The Planning Board may recommend approval, conditional approval, or rejection of any proposed site plan. Upon completion of review, the Planning Board will transmit their recommendations to the Board of Commissioners. The Board of Commissioners may approve, conditionally approve, or disapprove any site plan. A rejected site plan may be resubmitted in accordance with this section when redrafted to meet the specifications of this ordinance and upon payment of a separate site plan review fee as required in the most recently adopted fee schedule. The Board of Commissioners may waive the plan review fee for a resubmittal.

F. **CHANGES -** If, following Board of Commissioners' conditional or final approval, the owner or developer desires to make a change in any of the factors listed in this chapter, the change must be approved by the Planning Board and Board of Commissioners.

G. **PRE-APPLICATION CONFERENCE**
Before submitting an application for site plan approval, the applicant shall first meet with the Town Administrator to review the proposed plan and the requirements of this Ordinance.

H. **APPEAL**
A decision of the ~~Town Administrator or~~ Board of Commissioners on an application for a Site Plan Review may be appealed to the Carteret County Superior Court under the provisions of N.C.G.S. 160A-393 ~~Board of Adjustment~~ by an aggrieved party. Such appeal shall be made within thirty (30) days of the issuance of a written decision of the Board. ~~delivery of the notice required in Section 3.3(B).~~

3.4 TIME LIMITATIONS FOR SITE PLANS AND BUILDING PERMITS

The following provisions pertaining to time limitations to obtain Zoning and Building Permits, and to commence, continue and complete construction, shall apply in all cases in which site plan approval is required unless otherwise provided for in this section or vested rights are established through the requirements of Section 3.6 of this ordinance. Subsection (D) below, pertaining to site plan extensions, shall not apply in instances where a landowner has been granted a vested right pursuant to Section 3.6 of this ordinance.

A. **TIME LIMITATION TO OBTAIN BUILDING PERMIT**

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Within 180 days of issuance of ~~Upon~~ final approval of a site plan, the applicant must file a completed application for the building permit and all other permits necessary to build the project depicted in the site plan. ~~the Town Administrator or their designee may issue a Zoning Permit and the Building Inspector may issue a Building Permit within one hundred eighty (180) days from the date of such approval, provided that all requirements, including conditional requirements, are met.~~ If the applications for such permits are not filed ~~a Building Permit is not issued~~ within one hundred eighty (180) days from the date of final approval of the site plan, the site plan expires and the applicant must submit a new site plan conforming to the then current provisions of this ordinance for review and pay the applicable fees.

B. TIME LIMITATION TO COMMENCE AND CONTINUE CONSTRUCTION

If the start of construction has not commenced within one hundred eighty (180) days from the date of issuance of a Building Permit, the Building Permit and the approval of that site plan shall expire. If, after commencement, the work is discontinued for a period of twelve (12) months or more, the permit and site plan shall immediately expire. No work authorized by any permit or site plan that has expired shall be performed until a new site plan has been approved and new permits issued and all applicable fees paid.

C. TIME LIMITATION TO COMPLETE CONSTRUCTION

If the work authorized by a Building Permit issued in accordance with an approved site plan is started but not prosecuted to completion within eighteen (18) months of the date of issuance of the Building Permit, the approval of that site plan shall expire and the Building Permit shall be revoked. At the time of expiration, all work shall cease and shall be allowed to continue **ONLY** after a new site plan has been reviewed and approved by the Planning Board and Board of Commissioners and new Zoning and Building Permits issued and all applicable fees paid. The new site plan shall depict work in accordance with the then current provisions of this ordinance, and any further construction or use shall be in conformity with those regulations.

D. TIME LIMIT EXTENSION

As an alternative to subsections (A~~a~~), (B~~b~~) and (C~~c~~) above, a developer may, within sixty (60) days prior to the date of expiration of a site plan, petition the Board of Commissioners; and upon a subsequent finding by the Board that the delay in construction has been due to circumstances beyond the control of the developer and that an extension of the approval of the site plan will not be detrimental to the health, safety and general public welfare, and will be in harmony with the spirit and intent of this ordinance, the Board of Commissioners may extend the approval of the site plan for a specified period of time not to exceed an additional twelve (12) months. In the event the Board of Commissioners grants an extension to a site plan, and the time limitation for the Building Permit has expired pursuant to N.C.G.S. § 160A-418, the applicant will be required to purchase new Zoning and Building Permits. If a site

plan expires or the Board of Commissioners does not grant an extension, the applicant must submit a new site plan conforming to the then current provisions of this ordinance and pay the applicable fees.

3.5 APPLICATION FOR ZONING AND BUILDING PERMITS FOR PERMITTED USES

A. GENERAL REQUIREMENTS FOR BUILDING PERMIT APPLICATIONS

1. All Zoning and Building Permit applications for new construction of principal structures shall be accompanied by at least the following:
   (a) Name, address, telephone number, and email address of the applicant.
   (b) Name, address, telephone number, and email address of the owner of the property if different from the applicant.
   (c) Written authority from the owner of the property for the applicant to apply for the permits if the applicant is not the owner.
   ~~(a)~~(d) Street address for project or dwelling.
   ~~(b)~~(e) A survey, in duplicate, or scaled drawing showing:
      i. Dimensions of the lot and lot numbers.
      ii. Flood zone(s) as determined by the latest FEMA flood insurance rate map
      iii. Existing and proposed structure(s).
      iv. Existing and proposed driveway(s).
      v. Existing and proposed septic facilities including tanks, distribution boxes, and nitrification lines.
      vi. Setbacks from all property lines.
      vii. Location of areas subject to U.S. Army Corps of Engineers 404 wetlands protection as certified and dated by the USACE, if applicable.
   ~~(c)~~(f) A Coastal Area Management Act permit or CAMA exemption letter, whichever is applicable, if any proposed development depicted on the survey lies within an area of environmental concern.
   ~~(d)~~(g) For Zoning Permits: Scaled construction drawings showing the structure height.
   ~~(e)~~(h) For Building Permits: Two (2) sets of construction drawings to scale with dimensions that show at least the following: foundation plan or piling schedule; floor plans; cross sections of wall and roof design with connections; elevations; and proposed building height.
   ~~(f)~~(i) A current permit for a sewage system issued by the Carteret County Department of Environmental Health or the Division of Environmental Management of the North Carolina Department of Environment, Health, and Natural Resources.
   ~~(g)~~(j) Receipt for the payments of any fees imposed by the Town of Cedar Point.
   ~~(h)~~(k) Payment of the Building Permit and review fees in accordance with the current adopted fee schedule of Carteret County.

~~(i)~~(l) No application shall be considered complete unless and until the entire application fee has been paid in accordance with the current fee schedule.

~~(j)~~(m) Demonstration of compliance with all other applicable sections of this ordinance.

~~(k)~~(n) Any other information determined necessary by the Town Administrator or the Building Inspector to ensure that construction will comply with both Town ordinances and North Carolina State Building Codes.

2. All Zoning and Building Permit applications for remodeling, additions to existing structures or construction of accessory structures shall be accompanied by sufficient information to allow the Town Administrator or ~~their~~his designee and the Building Inspector to verify that the proposed work will be in compliance with this ordinance, the North Carolina State Building Code, the Coastal Area Management Act, and state regulations for sewage treatment. This may require the following information:
   (a) A survey or scaled drawing showing the proposed work in relation to property lines and existing structures.
   (b) Flood zone(s) as determined by the latest FEMA flood insurance rate map
   (c) Coastal Area Management Act permit or CAMA exemption letter.
   (d) For Zoning Permits: Scaled construction drawings showing the structure height.
   (e) For Building Permits: Construction drawings showing foundation plan or piling schedule, floor plans, cross sections of wall and roof design with connections, elevations and proposed building height.
   (f) Current permit for a sewage system issued by the Carteret County Department of Environmental Health.
   (g) Location of areas subject to U.S. Army Corps of Engineers 404 wetlands protection as certified and dated by the USACE.
   (h) Receipts for payments of any fees imposed by the Town of Cedar Point.
   (i) Payment of the Building Permit and review fees in accordance with the currently adopted fee schedule of Carteret County.
   (j) No application shall be considered complete unless and until the entire application fee has been paid in accordance with the current fee schedule.
   (k) Independent appraisal of value of existing structures and proposed work, when necessary.
   (l) Water tap permit, when necessary.

3. ~~Nothing contained in this ordinance shall require any change in the plans, construction, size or designated use of any building, structure or part of one for which a Building Permit has been issued by the building inspector prior to the time of passage of this ordinance or amendment thereof.~~

B. COMMERCIAL BUILDINGS AND OTHER PERMITTED USES

1. Site plans for new commercial or industrial construction or expansion or substantial improvements of any commercial or industrial structures must apply

for a Special Use Permit that must be reviewed by the Planning Board and approved by the Board of Commissioners before a Zoning and Building Permit for construction may be issued.

2. SITE PLAN REQUIREMENTS

Copies of the site plan shall be submitted no later than forty-five (45) days prior to the Planning Board meeting date at which the plan is to be reviewed. The number of copies required for review shall be determined by the Town Administrator or ~~their~~his designee. All plans shall be prepared, stamped, and endorsed by a registered engineer, surveyor or other person duly authorized by the state to practice as such. All plans shall contain at least the following information:

(a) Property and ownership information.

i. Present recorded owner and the map book reference of the site property.
ii. Owners, lot numbers or map book and page reference of all adjacent properties.
iii. Boundary of the entire lot by course and distance.
iv. Width of the existing rights-of-way.
v. Nature or purpose, location and size of existing easements.
vi. Iron pins three-eighths (3/8) inch in diameter and thirty-six (36) inches in length or concrete monuments shall be shown and installed at all lot corners, points of tangents, and any angle point along a given course of the lot.
vii. Plan drawn to at least one (1) inch equals sixty (60) feet scale showing north arrow.

(b) Existing features information**.**

i. Streets showing the type and width of pavement, curbs, and sidewalks.
ii. Topographic features of the lot and existing grades for the lot, streets, storm drainage, etc.
iii. Flood zone(s) as determined by the latest FEMA flood insurance rate map
iv. All other underground utilities and facilities including gasoline tanks.
v. Location of areas subject to U.S. Army Corps of Engineers 404 wetlands protection.
vi. Delineation of any and all Areas of Environmental Concern (AEC) as defined by CAMA.
vii. The location of any marsh areas or estuarine waters within or abutting the lot.

(c) Site improvements.

i. Proposed building type (brick, concrete, or frame), number of floors and dimensions.
ii. Proposed first floor elevation shall be shown.
iii. Location and type of all sidewalks and curbs within the site.
iv. Location of sanitary sewer facilities with connection to sewer system or septic tank.
v. Layout and number of parking stalls shall be shown in accordance with this ordinance.
vi. Finished grades shall be shown for the entire site.
vii. A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre. ~~Before any proposed site plan shall be approved, tentative approval of the proposed sewage treatment and disposal facilities, by the Carteret County Department of Environmental Health or the North Carolina Department of Environment, Health, and Natural Resources, shall be demonstrated to the planning board along with any dredging and filling permits required by law.~~
viii. An Exterior Lighting Plan shall be provided in accordance with this ordinance.

(d) Tentative or final approval of the proposed sewage treatment and disposal facilities for the development from the Carteret County Department of Environmental Health or the North Carolina Department of Environment, Health, and Natural Resources.

(e) Tentative or final dredging or fill permits from the state or federal agencies for projects that will require these permits.

~~(d)~~(f) Right-of-way improvements shall be made in accordance with the standards and specifications of North Carolina Department of Transportation, the Cedar Point Code of Ordinances, or this ordinance.

~~(e)~~(g) Storm drainage shall be provided in accordance with the State of North Carolina Department of Environmental Quality.

~~(f)~~(h) In addition to the Building Permit, a permit for any construction within the public right-of-way shall be obtained prior to commencing any work.

~~(g) Inspections of sites involving public rights-of-way and inspections of any on-site construction shall be made by the Town of Cedar Point and shall take place before any activity takes place.~~

~~(h)~~(i) All items on the site plan checklist and all pertinent provisions of this ordinance shall be addressed by the applicant before the site plan is presented for review by the Planning Board.

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~~(i)~~(j) After approval of a site plan by the Board of Commissioners, minor changes in the plan may be approved in writing by the Town Administrator or ~~their~~his designee, provided that the changes do not prevent the spirit and intent of a condition of approval from being met, or a provision or requirement of an ordinance from being executed, except as provided in Section 3.6, vested right.

3. Dimensional requirements and development standards shall be in accordance with the zoning district in which the proposed development is to be located.

4. The Planning Board may recommend approval, conditional approval, or rejection of any proposed site plan. Upon completion of review, the Planning Board will transmit their recommendations to the Board of Commissioners. The Board of Commissioners may approve, conditionally approve, or disapprove any site plan. A rejected site plan may be resubmitted in accordance with this section when redrafted to meet the specifications of this ordinance and upon payment of a separate site plan review fee as required in the most recently adopted fee schedule.

5. If, following Board of Commissioners' conditional or final approval, the owner or developer desires to make a change in any of the factors listed in subsection B(2) above, the change must be approved by the Planning Board and Board of Commissioners.

C. Miscellaneous.

1. No building permit for a project will be issued until a zoning permit for the project has been issued by the Zoning Administrator.

~~4.~~ 2. Nothing contained in this ordinance shall require any change in the plans, construction, size or designated use of any building, structure or part of one for which a Building Permit has been issued by the building inspector prior to the time of passage of this ordinance or amendment thereof.

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3.6 VESTED RIGHT

A vested right shall be deemed established with respect to any property upon the valid approval or special use approval of a site specific development plan, following notice and public hearing by the board of commissioners of the Town of Cedar Point and a declaration in such approval that vested rights is granted. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan. The board of commissioners may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and

welfare. Landowners seeking a vested right shall fully comply with all provisions stated herewith, and N.C.G.S. § 160A-385.1, as amended.

A. ESTABLISHMENT OF VESTED RIGHT

1. Any property owner wishing to establish a vested right shall make ~~their~~his intentions know in writing to the Town of Cedar Point at the time of submittal of the site-specific development plan. If the town is not notified in writing at the time of submittal of a site-specific development plan, then the application shall not be entitled to vested rights status. ~~proceed in accordance with this ordinance.~~

2. The definitions, procedures, and principles set forth in N.C.G.S. § 160A-385.1, as amended, shall apply with respect to vested rights, as supplemented herein..

3. The following are specifically deemed to be "site specific development plans" for purposes of vested rights:

   a. subdivision plans;

   b. plans for group housing projects including condominiums, townhouses, and planned unit developments;

   c. plans submitted for all special use permit applications;

   d. plans for development in property zoned for mixed use development; and

   ~~1.~~ e. plans for any other project when (1) the applicant requests in writing that the plan be considered as a site specific development plan for vested rights purposes, and (2) the Board of Commissioners approves such request during the review and approval process.

4. To achieve vested rights status, the site specific development plan must comply with all provisions of this Unified Development Ordinance with respect to the development proposed. An application for vested rights does not diminish, abridge, or relax such requirements.

5. The vesting point for a vested right is upon approval thereof by the Board of Commissioners.

6. Duration of vested right. –

   (a) A right which has been vested as provided for in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the Board of Commissioners.

   (b) Notwithstanding the provisions of the preceding subsection (a), upon application the Board of Commissioners may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development,

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economic cycles, and market conditions. These determinations shall be in the sound discretion of the Board of Commissioners.

7. Following approval or conditional approval of a site specific development plan or a phased development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with said original approval. Nothing in this section shall prohibit the Board of Commissioners from revoking the original approval for failure to comply with applicable terms and conditions of the approval or this Unified Development Ordinance.

2. Property owners electing to pursue the vested right option will be subject to review procedures as specified within this section, application requirements for special uses, and henceforth, the project under consideration for vested right will be processed as a special use, subject to all conditions, specifications, procedures and required findings as outlined within this ordinance. If the option for granting of vested right is successfully exercised, such right will be specified and issued as part of the special use permit.

3. A vested right may be established only for uses that are currently permitted by right or by Special Use Permits in the appropriate zoning district.

B. SITE SPECIFIC DEVELOPMENT PLANS

1. SITE SPECIFIC DEVELOPMENT PLAN

"Site Specific Development Plan" means a plan of land development submitted to the Town by a landowner that describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of land. The following types of applications constitute a Site Specific Development Plan:

A Special Use Permit pursuant to *Section 3.10* of this Ordinance

(a) To qualify as a Site Specific Development Plan, the plan submitted, shall include the following information: total acreage of the site; approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of all proposed buildings and other structures (including roads and parking facilities); maximum gross floor areas and impervious surface; and the infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

(b) The permit issuing authority may approve a Site Specific Development Plan upon such terms as may be reasonably necessary to protect the public health, safety, and welfare. The specific requirements of other sections of this Ordinance shall be the presumptive minimum standards which applicants must meet; however, the permit issuing authorities

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may waive or modify those minimum requirements upon (i) the applicant's specific, written request for a waiver or modification and (ii) the presentation of satisfactory, competent evidence by the applicant demonstrating that the applicant's proposal otherwise satisfies or meets the need the minimum standard to be waived or modified was intended to address.

C. DURATION AND TERMINATION OF VESTED RIGHT

1. A right that has been vested as provided for in this section shall remain vested for a period of two (2) years from the date of board of commissioners' approval of the site-specific development plan. This vesting shall not be extended by any amendments or modifications to the site-specific development plan.

2. The board of commissioners of the Town of Cedar Point may rescind the approval of a site-specific development plan for failure to comply with applicable terms and conditions of the approval or this chapter.

3. Upon issuance of a building permit, the provisions of N.C.G.S. § 160A-418 and N.C.G.S. § 160A-419 shall apply, except that a permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding.

4. A right that has been vested as provided in this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

D. SUBSEQUENT CHANGES PROHIBITED; EXCEPTIONS

1. A vested right, once established as provided for in this section, precludes any zoning action by the Town of Cedar Point which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in an approved site specific development plan, except:

   (a) With the written consent of the affected landowner; or

   (b) Upon findings at a public hearing by the board of commissioners that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site specific development plan; or

   (c) To the extent that the affected landowner received compensation for all costs, expenses and other losses incurred by the landowner including, but not limited to, all fees paid in consideration of financing and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the Town of Cedar Point, together with interest

thereon at the legal rate until paid. Compensation shall not include any diminution in value of the property which is caused by such action; or

(d) Upon findings at a public hearing by the board of commissioners that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of Cedar Point of the site specific development plan; or

(e) Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site specific development plan, in which case the Town of Cedar Point may modify the affected provisions, upon a finding at a public hearing by the board of commissioners that the change in state or federal law has a fundamental effect on the plan.

2. Nothing in this chapter shall prevent the Town of Cedar Point from amending this chapter or official map in such a way that a development project for which a vested right has been established is rendered nonconforming in any way.

3. The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulations by the Town of Cedar Point including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vesting right period provided for in this section.

4. The establishment of a vested right shall not preclude, change or impair the authority of the Town of Cedar Point to adopt and enforce zoning ordinance provisions governing nonconforming situations or uses.

E. **MISCELLANEOUS PROVISIONS.**

1. A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right.

2. Each site specific development plan which obtains a vested right under this chapter shall contain the following notation: "Approval of this plan establishes a vested right under N.C.G.S. § 160A-385.1. Unless terminated at an earlier date, the vested right shall be valid until (date)."

~~3. In the event that N.C.G.S. § 160A-385.1 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.~~

3.7 CERTIFICATE OF COMPLIANCE REQUIRED

No land shall be used or occupied, and no building hereafter structurally altered, erected, moved, be used or have its use changed, until a certificate of compliance shall have been issued by the Town Administrator or ~~their~~his designee stating that the building and/or the proposed use thereof complies with the provisions of this ordinance. A certificate of compliance shall be applied for coincident with the application for a Zoning Permit and shall be issued within ten (10) days after the erection or structural alterations of such building, or part, shall have been completed in conformity with the provisions of this ordinance and all applicable local, State and Federal regulations. The Town Administrator may require certification of such conformities. A record of all certificates shall be kept on file in the office of the Town Administrator, and copies shall be furnished on request to any person wishing to review such records. No permit for excavation or erection of, any building; or part of a building; or for repairs to, or alterations of, a building shall be issued until after a statement of its intended use has been filed by the applicant. In instances where a change of use is proposed and no Building Permit is required, the applicant shall obtain a Change of Use Zoning Permit from the Town Administrator or ~~their~~his designee stating that the proposed use and requirements pertaining thereto comply with the provisions of this ordinance.

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3.8 FEES

All site plans, development plans, plats, or other plans required to be presented by this ordinance for approval by the Town of Cedar Point shall be accompanied by a plan review fee. This fee shall be payable to the Town of Cedar Point and shall be due and payable upon submission of the site plan, plan or plat. The fee required by this section shall be the amount specified in the adopted fee schedule of the Town of Cedar Point.

3.9 COMMON REVIEW PROCEDURES

A. COMPLETE APPLICATIONS

All applications for any approval required by this Ordinance must be complete. The Town Administrator will establish application deadlines to allow time to review applications for completeness before continuing the application process. Applicants who submit incomplete applications will receive a written notice stating the information needed to complete the application and a date by which the information must be submitted to maintain the review schedule. No application will be considered complete until all fees required by the Town's fee schedule have been paid in full.

1. COMPLETENESS REVIEW

Upon receipt of an application, the Town Administrator shall determine if the application is complete. A complete application is one that:

(a) Contains all information and materials as required for submittal of the particular type of application;
(b) Is in the form required for submittal of the particular type of application;
(c) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive standards of this Ordinance; and
(d) Is accompanied by the fee established for the particular type of application.

B. EXPEDITIOUS REVIEW

The Town shall make every reasonable effort to process applications expeditiously, consistent with the need to ensure that all development conforms to the requirements of this ordinance.

C. FEES

Filing fees for all development approvals pursuant to this ordinance shall be established by the Fee Schedule adopted by the Town Board of Commissioners.

D. AUTHORITY TO FILE

Applications for any approval or permit required by this Ordinance must be signed by the property owner, a designated owner's agent, or a contract purchaser of a property with authorization of the property owner. Written proof of authority must be submitted with every application.

E. NO PERMIT BY DEFAULT

Notwithstanding any time limit provided in this Ordinance for acting on applications for permits, no decision by default shall be deemed given by any board, committee or official of the Town if the time limit is not met.

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3.10 SPECIAL USE PERMIT

A. INTENT

Special Uses because of their inherent nature, extent of development, or external effects, require special care in the control of their location, design, and methods of operation, in order to insure protection of the public health, safety, and welfare. It is the intent of this section to set forth the information to be submitted with applications for Special Use Permits and to state the standards by which each application shall be judged.

The criteria and procedures established in this section are intended to ensure that the design and construction of site elements include appropriate consideration of the relationship and balance among site elements, the relationship of the proposed development to natural features and neighboring developments, access and circulation systems, mitigation of erosion and sedimentation, mitigation of storm water drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring development and streets, and mitigation of traffic impacts.

B. APPLICABILITY

The Cedar Point Board of Commissioners may approve permits for Special Uses in the zoning district where the Special Uses are specified by this ordinance. The Board of Commissioners may impose such reasonable and appropriate conditions and safeguards upon these Special Use permits as to ensure that the spirit and intent of this ordinance are preserved and that such Special Use will not adversely affect the public interest.

1. Written application for a Special Use Permit shall be submitted to the Town Administrator or ~~their~~his designee no later than thirty (30) days prior to the next regular monthly meeting of the Planning Board. Such written application shall indicate the section of this ordinance under which a permit is being sought and shall contain the information required by the appropriate section and such other information as may be required to ensure compliance with this ordinance.

2. The Town Administrator will prescribe the application form for Special Use Permits.

3. Applications for special use permits may be made by the owner of the property or the owner's authorized representative (including but not limited to a contract purchaser of the property, provided that such contract purchaser or other authorized representative produces evidence of authority to proceed with the application).

4~~3~~. Applicants are encouraged to meet with Town Administrator staff before filing a Special Use Permit application to review specific permit and application requirements.

5. ~~———~~Upon receipt of a Special Use Permit application, the Town Administrator shall first determine whether the application is complete, including the payment of all required application fees. If the Town Administrator determines that the application is not complete, he shall notify the applicant in writing of the reasons for such determination. Once a complete application has been received, the Town Administrator shall analyze the application in conjunction with qualified representatives of the Town and such other agencies or officials as may be

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appropriate, to determine conformity with the Comprehensive Plan, the provisions of this Ordinance, the provisions of any Master Plan approved for the property, and other regulations applicable in the case and report his findings to the Planning Board.

6. The Planning Board will review all applications for special use permits and make recommendations to the Board of Commissioners regarding the issuance thereof.

~~2. The written application shall include a listing of the names and addresses of all abutting property owners and the owners of property immediately across the street from the property affected being the subject of the Special Use application. The list shall be supplied by the applicant and shall be current according to the most recent tax listing abstract as filed in the office of the Carteret County Tax Department. Accompanying the list shall be copies of all the adjacent property tax cards as available through the Carteret County Tax Department. The Town Administrator or their designee shall give written notice, including the date and time of the public hearing at which the application will be considered, to the owners as contained in said listing. Notice shall be sent by registered or certified mail to the last known address of such owner as appears on the list supplied by the applicant within two (2) weeks prior to the scheduled meeting. A public advisement sign shall also be place on the property in question within two (2) weeks prior to the scheduled meeting.~~

7. A public hearing shall be held by the Cedar Point Board of Commissioners prior to any decision ~~be enacted~~ on a Special Use Permit and such public hearing will be scheduled within 45 days after the Planning Board's review unless the mayor determines that the public interest will be promoted by a delay in which case the hearing may be delayed by order of the mayor for up to an additional 31 days.

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8. Notice of the public hearing shall be given at least fourteen ~~fifteen~~ (14~~15~~) days in advance of such ~~public~~ hearing as follows:

a. To the applicant and owner of the property by certified mail, return receipt requested;

b. To the owners of property, as determined from the Carteret County GIS information, abutting the property that is the subject of the special use permit application by certified mail, return receipt requested; and

c. By posting a notice on the subject property visible from the nearest public street, or in the public right of way nearest to the subject property, indicating that the property is the subject of a zoning proceeding and giving the telephone number of Cedar Point Town Hall where additional information may be obtained.

The notice of public hearing will generally describe the nature of special use permit sought, and the date, time, and place of the hearing.

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9. For notice of public hearing given by certified mailing, such notice is deemed given upon depositing a copy of the same in the United States mail.

10. In addition to notice given as aforesaid, notice of the public hearing shall also be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. ~~by a legal advertisement placed in a newspaper having general circulation in Carteret County.~~

11. The Town Administrator, working in cooperation with the Town Clerk and the Town staff, is responsible for ensuring that all notices of the public hearing are properly given and shall file a statement certifying this with the Board of Commissioners.

~~3. The owner of the property for which the Special Use or vested right is sought or his agent shall be notified by mail. Notice of these hearings shall be posted on the property concerned for at least fifteen (15) days prior to the public hearing.~~
~~4.~~

~~In instances where a property owner seeks to obtain a vested right pursuant to Section 3.6 of this ordinance, a public hearing shall be held by the Board of Commissioners.~~

~~Notice shall be given at least fifteen (15) days in advance of such public hearing by a legal advertisement placed in a newspaper having general circulation in Carteret County. The owner of the property for which the Special Use or vested right is sought or his agent shall be notified by mail. Notice of these hearings shall be posted on the property concerned for at least fifteen (15) days prior to the public hearing.~~

12. At the public hearing, ~~If a public hearing is held,~~ any person ~~party~~ may appear in person or be represented by agent or attorney and make relevant comments and present relevant information. Parties with legal standing may ask questions of others making comment during the hearing. The mayor is authorized to impose reasonable time limits on presentations.~~.~~

13. The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any other reasons set for in *Section 3.10(C), GENERAL STANDARDS/FINDINGS OF FACT*, rests on the party or parties urging the requested permit should be denied.

~~5.~~

C. ~~GENERAL STANDARDS/~~FINDINGS OF FACT/DECISION

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The Town Commissioners shall not approve an application for a Special Use permit, or approve vested rights in connection therewith, -unless it makes each of the following findings concerning the proposed special use:

1. The applicant has met the requirements of this ordinance and all other applicable ordinances.
2. That the use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.
3. That the use, as proposed, will not overburden the firefighting capabilities and the water supply capacity within the town as said facilities and capabilities will exist on the completion date of the special use for which application is made.

~~1.~~4. That the use or development is located, designed, and proposed to be operated so as to maintain the public health, safety, and general welfare.

~~2.~~5. That the use or development complies with all required regulations and standards of this Ordinance;

~~3.~~6. That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and

~~4.~~7. That the use or development confirms with the general plans for the physical development of the Town as embodied in the Town's Comprehensive Plan.

~~6. Before they may grant any Special Use Permit or vested right, the Board of Commissioners shall make affirmative findings that:~~

~~1. The applicant has met the requirements of this ordinance and all other applicable ordinances.~~

~~2. That the use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.~~

~~3. That the use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the town as said facilities and capabilities will exist on the completion date of the special use for which application is made.~~

The Board of Commissioners will act by majority vote. The decision of the Board will be reduced to writing and signed by the mayor.

~~7.~~ In granting any Special Use Permit, the Board of Commissioners may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of those conditions and safeguards, when made a part of the terms under which the Special Use Permit is granted, shall be considered a violation of this ordinance and will be punishable under Chapter 4 of this ordinance. The Board of Commissioners may prescribe a time limit within which a Special Use Permit shall begin or shall be

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completed. Failure to comply within the time limit set shall void the Special Use Permit.

If a Special Use Permit application is submitted simultaneously with a rezoning request to a Condition Use District, hearings on both matters shall be held concurrently. The Town Commissioners must act on the rezoning request before it may act on the Special Use Permit application. If the rezoning request is denied, the Special Use Permit application is moot, and no Board action is required on such request.

~~D.~~B. ~~GENERAL STANDARDS/FINDINGS OF FACT~~

~~The Town Commissioners shall not approve an application for a Special Use permit unless it makes each of the following findings concerning the proposed special use:~~

~~1.~~4. ~~That the use or development is located, designed, and proposed to be operated so as to maintain the public health, safety, and general welfare.~~

~~2.~~5. ~~That the use or development complies with all required regulations and standards of this Ordinance;~~

~~3.~~6. ~~That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and~~

~~4.~~7. ~~That the use or development confirms with the general plans for the physical development of the Town as embodied in the Town's Comprehensive Plan.~~

~~E. APPLYING THE ORDINANCE TO DETERMINE COMPLIANCE WITH STANDARDS TO MAKE FINDINGS OF FACT~~

~~1. All of the requirements in this ordinance apply to applications for Special Use Permits.~~

~~2. As Special Uses may have unique characteristics that may not be adequately addressed with development standards for routine uses, an applicant may request a waiver to any provision in Chapter 7 together with an explanation of why the waiver or modification is appropriate, including testimony as to why the proposed solution included in the application is equal or superior to the result achieved through the strict application of the provisions in Chapter 6. The Town Administrator and Planning Board may offer recommendations to the Town Commissioners regarding any requested waiver or modification and the sufficiency of the evidence in support of granting the waiver or modification. Any approval of a Special Use Permit shall specifically detail any and all waiver(s) or modification(s) granted to the applicant.~~

~~F. SPECIALIZED INFORMATION AND FINDINGS REQUIRED FOR ALL SPECIAL USE PERMITS~~

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1. ~~The Town of Cedar Point recognizes that the Special Use Permit process affords the town and applicant a unique opportunity to cooperate and encourage development that is mutually beneficial. The Town requires applicants for Special Use Permits to provide additional information and amenities within their projects to offset the possible waiver of strict ordinance compliance and to recognize the impacts of sizable or unique developments can have on quality of life for Cedar Point residents. All applicants for Special Use Permits shall include information about the following in their submittals and shall address how their proposal satisfies each of the findings of fact in *Section 3.10(C), GENERAL STANDARDS/FINDINGS OF FACT*.~~

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2. ~~Applicants shall indicate a preferred green building or sustainable building rating system for their project and indicate the performance level they intend to meet for the development site or structures in their application materials.~~

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3. ~~Applicants shall indicate their expected water use for the daily operations of their site upon completion. Projects will be required to demonstrate water saving or reuse measures that will be employed (show baseline & their use).~~

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4. ~~Applicants proposing 10 or more dwelling units shall indicate the provisions they intend to make in support of maintaining the diversity of housing types and housing price points in Cedar Point. A Residential Market Study is strongly encouraged.~~

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~~F. PROCEDURE~~

~~1. AUTHORITY TO APPLY~~

~~G. BURDEN OF PRESENTING EVIDENCE~~

~~The burden of presenting a complete application shall at all times be upon the applicant. However, unless the Town Administrator informs the applicant at or before the hearing on the application that, and in what way, the application is incomplete, and offers the applicant an opportunity to complete the application, the application shall be presumed to be complete.~~

~~Once a completed application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to allow the permit-issuing board to conclude that the application should be denied for any reasons stated in *Section 3.10(C), GENERAL STANDARDS/FINDINGS OF FACT*, shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.~~

~~The burden of persuasion on the issue of whether the development, if completed~~

as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any other reasons set for in *Section 3.10(C), GENERAL STANDARDS/FINDINGS OF FACT*, rests on the party or parties urging the requested permit should be denied.

H. PLANNING BOARD REVIEW AND RECOMMENDATION

The Planning Board shall within thirty (30) days after notification of an application hold a meeting to discuss, prepare, and submit for the Town Commissioners a recommendation concerning the application.

I. PUBLIC HEARING

After notice in accordance with *Section 3.10(I)(1), NOTICE OF PUBLIC HEARING*, is given the Town Commissioners shall hold a public hearing on the application. The Town Board of Commissioners, in its discretion, schedules the date and time for a public hearing for a Special Use Permit application.

The public hearing on a Special Use Permit application shall be a quasi-judicial hearing open to the public. At the hearing, the applicant and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions. Reasonable and equitable limitations may be placed on the presentation of evidence and arguments, and the cross-examination of witnesses, so that the application may be heard without undue delay. All persons who intend to present evidence at the public hearing shall be sworn.

When the applicant presents substantial and competent evidence that the proposed development will satisfy the general standards established by *Section 3.10(C), GENERAL STANDARDS/FINDINGS OF FACT*, above and will conform to all specific provisions applicable to that particular special use as established by this Ordinance, persons opposed to the application shall have the burden of presenting substantial and competent evidence contrary to the applicant's evidence or substantial and competent evidence that the proposed development will violate one or more of the general standards set forth in *Section 3.10(C), GENERAL STANDARDS/FINDINGS OF FACT*, or any of the specific standards for the particular special use established by this Ordinance. If no such evidence is submitted, the applicant shall be granted the permit. If substantial and competent evidence in opposition to the application is submitted, the applicant shall have the burden of overcoming that evidence with further evidence of their own.

A record of the proceedings of the hearing shall be made and shall include all application materials and documentary evidence presented at the hearing.

1. NOTICE OF PUBLIC HEARING

Notice of the public hearing on a Special Use Permit application shall be given once a week for two (2) consecutive calendar weeks in a newspaper of general circulation in Carteret County. The notice shall be published the first time not less than ten (10) days but not more that twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Written notice shall be sent to all adjacent property owners not less than ten (10) days before the hearing date. Adjacent property owners are those whose property lies within five hundred (500) feet of the affected property and whose names and addresses are currently listed in the county tax records.

2. POST-HEARING PROCESS

The public hearing on a Special Use Permit application is formally closed by a motion and vote of the Board members present at the hearing. The Town Administrator shall prepare a recommendation following the Public Hearing to be submitted to the Town Commissioners.

3. TOWN COMMISSIONERS ACTION

The Town Commissioners shall not consider the approval of the Special Use Permit until thirty (30) days after the date the Planning Board was notified of the application or until the Planning Board makes its recommendation, whichever comes first.

The Town Commissioners shall review the record of the public hearing, the Technical Review Committee's recommendation, the Planning Board's recommendation, and the Planning staff's report and shall take action on the application based on findings of fact as to the determinations required in *Section 3.10(C), GENERAL STANDARDS/FINDINGS OF FACT*, and the applicable standards for the specific special use as established by this Ordinance. All findings shall be based on competent evidence presented at the public hearings.

The Town Commissioners may impose such reasonable conditions upon approval of a SUP as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and equitable treatment provided.

All conditions of approval shall run with the land and use and shall be binding on the original applicant(s) as well as all successors, assigns, and heirs. If the Town Commissioners denies the permit, the reasons for its action shall be recorded in the minutes of the meeting.

~~J.~~F. **D. WRITTEN NOTICE ~~FORMALIZING THE OUTCOME~~**

The The Town Administrator shall cause notice of the disposition of the application to be delivered by certified mail to the applicant and any party who has filed a written request for a copy with the Town Administrator at the time of the hearing~~ and shall cause a copy of the decision to be filed in the Town Administrator~~.

In the case of approval or approval with conditions, the Town Administrator or Town Clerk ~~staff~~ shall issue the Special Use Permit in accordance with the action of the Town Commissioners and the applicant shall record it in the office of the Carteret County Register of Deeds within ten (10) days of receipt. No Special Use Permit will be effective, and no further permits or approvals for the development may be issued, until the Special Use Permit has been filed with the Register of Deeds. A copy of the Special Use Permit, with proof of filing with the Carteret County Register of Deeds, shall be delivered to the Town Administrator within ninety (90) days after the Special Use Permit is issued to the applicant.

Any construction authorized by a Special Use Permit must receive construction drawing approval and a Zoning Compliance Permit as detailed in *Sections 3.5 and 3.7*.

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~~K.~~E. **APPEAL**

An aggrieved party may appeal a decision by the Town Commissioners on an application for a Special Use Permit to the Superior Court. Such appeal shall be in the nature of certiorari and must be filed within the time provided by N. C. G. S. § 160A-388(e2)(2).

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~~L.~~F. **EFFECT OF DENIAL OR WITHDRAWAL**

When the Town Commissioners shall have denied an application or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in *Section 3.10(I), NOTICE OF PUBLIC HEARING*, Town staff shall not accept another application for the same or similar Special Use, affecting the same property or a portion thereof, until the expiration of one year from the date of denial or withdrawal.

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~~M.~~G. **VESTING**

A vested right pursuant to *Section 3.6, VESTED RIGHTS* is established by the issuance of a Special Use Permit pursuant to this section.

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~~N.~~H. **DEVIATIONS**

After a Special Use Permit has been approved, the Town Administrator is

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authorized to approve minor changes in the approved plans of Special Uses, as long as they are in harmony with action of the Town Commissioners but the Town Administrator shall not have the authority to approve changes that constitute a modification of the approved plans. A modification shall require approval of the Town Commissioners. If the Town Administrator is uncertain whether a requested deviation is a "minor change" or a "modification", it shall be treated as a modification and referred to the Town Commissioners for review and approval.

~~O.~~I. CRITERIA USED FOR DETERMINATION

The Town Administrator shall use the following criteria in determining whether a proposed action is a minor change or a modification:

~~1.~~a. Any change in a specific condition imposed during the approval of a Special Use Permit shall constitute a modification.

~~2.~~b. A substantial change in use or enlargement by greater than ten (10) percent of an authorized use shall constitute a modification.

~~3.~~c. A ten (10) percent or greater increase in intensity of use shall constitute a modification. An increase in the number of dwelling units is an example of an increase in intensity of use.

~~4.~~d. An increase of intensity of less than ten (10) percent may be considered a minor change if the Town Administrator finds that the development, as changed or modified, will continue to be in general conformance with the approved Special Use Permit.

~~5.~~e. Structural alterations that significantly affect the basic size, form, style, ornamentation, and/or character of buildings shown on an approved plan or described in the applicant's narrative shall be considered a modification.

~~6.~~f. Substantial change in the amount and/or location of open space, recreation facilities, or landscape screening shall constitute a modification. Changes to signage which increase the number of signs, or increase the sign face area, beyond that approved as part of the Special Use permit process shall be considered modifications.

~~7.~~g. Any change in parking areas resulting in an increase or reduction of ten (10) percent or more in number of spaces shall constitute a modification.

~~8.~~h. Substantial change in pedestrian and/or vehicular access or circulation patterns shall constitute a modification.

~~9.~~i. Any change in a setback required by the provisions of this Ordinance or imposed as a condition of approval shall constitute a modification.

~~10.~~j. Substantial change in the location or extent of street and utility improvements or rights-of-way, including water, sewer, and storm drainage facilities, which would result in a different level of service than was represented to the Town Commissioners during the public hearing process, shall constitute a modification.

~~11.~~k. Any combination of minor changes that in the determination of the Town Administrator are, taken together, substantial in nature.

~~P.~~J. REVIEW OF RECORD REQUIRED

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The Town Administrator shall, before deciding whether a proposed change to a special use is a minor change or modification, review the record of the proceedings of the original Special Use Permit approval. The Town Administrator's decision shall be based upon the applicant's request, a review of the record of the original request, and the Town Administrator's findings under the criteria of *Section 3.10(~~I~~O), CRITERIA USED FOR DETERMINATION*.

~~Q.~~K. ACTION REQUIRED ON PROPOSED MINOR CHANGES

If the Town Administrator determines that the proposed action is a minor change, he/she shall state its findings in writing to the applicant. The applicant shall file with the Town Administrator's an amended site plan, or written statement, outlining in detail the minor change(s) proposed. Town staff shall file the amended site plan or written statement with the originally approved site plan.

~~R.~~L. ACTION REQUIRED ON PROPOSED MODIFICATIONS

If the Town Administrator determines that the proposed action is a modification, he shall require the applicant to submit a request for modification of the approved Special Use Permit. The applicant shall provide an amended site plan, if applicable, ~~-~~ and a written narrative outlining the specific changes requested. The Town Administrator shall submit the request to the Town Commissioners. If the Town Commissioners find the modification substantial in its impact, or wishes to have additional public input, it may set a public hearing to receive testimony concerning the modification request. Any public hearing called pursuant to a request for a modification of an approved Special Use Permit ~~SUP~~ shall be held in conformity with the requirements of *Section 3.10(B 8 -11~~I), PUBLIC HEARING~~*. The Town Commissioners may approve, approve with conditions, or disapprove the application for a modification. The Town Administrator shall file the Town Commissioners' action as an amendment to the original application.

~~S.~~M. REVOCATION

The Town Commissioners may revoke a Special Use Permit if it finds that any one, or more, of the following conditions:

~~1.~~a. That any governmental license or permit required for the activity authorized by a Special Use Permit has not been obtained or has been terminated; or

~~2.~~b. That any of the applicable requirements of this Ordinance or any conditions attached to the Special Use Permit, or modification thereof, have been violated.

The Town Commissioners may consider reapplication for a Special Use Permit on property on which a previous permit has expired pursuant to *Section 3.10(T), EXPIRATION* or has been revoked under this section, if all of the standards which are set forth in this Ordinance are met.

~~T.~~N. EXPIRATION

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An approved Special Use Permit expires 24 months from the date of approval if the Zoning Permit has not been issued for the project unless an extension of the expiration date has been granted by the Town Commissioners. Extensions may be in the form of a longer expiration time approved with the initial Special Use Permit, or a separate request made in writing before the expiration of the standard 24 months.

3.11 VARIANCE

A. INTENT

This section establishes the process to be followed by the Board of Adjustment when it considers requests for relief relating to the requirements of this Ordinance. Nothing in this section shall be construed to authorize the Board of Adjustment to permit a use in a district where that use is neither a permitted, nor a Special Use.

B. APPLICABILITY

When a property owner believes unnecessary hardships would result from carrying out the strict letter of this Ordinance ~~claims that he or she cannot make reasonable use of their property if they are required to comply with the dimensional standards established by this Ordinance, such as but not limited to setback requirements, minimum lot width requirements, minimum lot area requirements and maximum height requirements, he they~~ may seek a variance from such requirements. Only the Board of Adjustment has authority to grant such variances, and then only upon application of established legal standards as set forth in this Ordinance.

C. PROCEDURE

1. APPLICATION REQUIREMENTS
   The application must be filed with the Town Administrator.
2. STAFF REVIEW
   Upon receipt of a variance application, the Town Administrator shall first determine whether the application is complete, including the payment of all required application fees. If Town Administrator determines that the application is not complete, ~~they~~he shall notify the applicant in writing of the reasons for such determination. Once a complete application has been received, the Town Administrator shall analyze the application in conjunction with qualified representatives of the Town and such other agencies or officials as may be appropriate, to determine conformity with the Comprehensive Land Use Plan, any other adopted plans, the provisions of this Ordinance, and other regulations applicable in the case. The Town Administrator shall schedule the complete application for the next available meeting of the Board of Adjustment.
3. NOTICE OF PUBLIC HEARING
   a. A public hearing shall be held by the Cedar Point Board of Adjustment prior to any decision on a Variance.

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b. Notice of the public hearing shall be given at least fourteen (14) days in advance of such hearing as follows:

i. To the applicant and owner of the property by certified mail, return receipt requested;

ii. To the owners of property, as determined from the Carteret County GIS information, abutting the property that is the subject of the variance application by certified mail, return receipt requested; and

c. By posting a notice on the subject property visible from the nearest public street, or in the public right of way nearest to the subject property, indicating that the property is the subject of a zoning proceeding and giving the telephone number of Cedar Point Town Hall where additional information may be obtained.

Except for the posted notice on or near the property, the notice of public hearing will generally describe the nature of special use permit sought, and the date, time, and place of the hearing.

c. For notice of public hearing given by certified mailing, such notice is deemed given upon depositing a copy of the same in the United States mail.

d. In addition to notice given as aforesaid, notice of the public hearing shall also be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

e. The Town Administrator, working in cooperation with the Town Clerk and the Town staff, is responsible for ensuring that all notices of the public hearing are properly given and shall file a statement certifying this with the Board of Commissioners.

~~3.~~

~~Written notice shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this ordinance~~

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4. PUBLIC HEARING

~~Following receipt of the application from the Town Administrator,~~ Tthe Board of Adjustment shall conduct a quasi- judicial public hearing on the application. ~~After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record.~~

a. At the public hearing, any person may appear in person or be represented by agent or attorney and make relevant comments and present relevant information. Parties with legal standing may ask questions of others making comment during the hearing.

b. The burden of persuasion for the variance remains at all times on the applicant.

After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record.

5. GENERAL STANDARDS/FINDINGS OF FACT

A Variance application shall be approved only upon a finding by the Board of Adjustment that all of the following standards are met:

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

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

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

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

E. BOARD ACTION

The Board of Adjustment shall take one of the following actions, based on the standards in Section 3.11(C)5 , GENERAL STANDARDS/FINDINGS OF FACT:

(a) Approve the application as submitted;

(b) Approve the application subject to conditions; or

(c) Deny the application.

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The affirmative vote of at least four-fifths (4/5) of the members of the Board of Adjustment who are eligible to vote is required to grant a variance.

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The town staff will prepare a written Decision setting forth the findings of fact and decision of the Board of Adjustment which Decision will be signed by the Chairman of the Board.

~~D. GENERAL STANDARDS/FINDINGS OF FACT~~

~~A Variance application shall be approved only upon a finding that all of the following standards are met:~~

~~1. Strict application of the Ordinance requirements results in practical difficulties or unnecessary hardships; and~~

~~2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner; and~~

~~3. The Variance is the minimum action that will make possible a reasonable use of land or structures; and~~

~~4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and~~

~~5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.~~

~~E. INSUFFICIENT JUSTIFICATION FOR VARIANCE~~

~~The following do not constitute grounds for a Variance:~~

~~1. The existence of other nonconforming or conforming uses of land or structures in the same or other districts;~~

~~2. The request for a particular use expressly, or by inference, prohibited in the district; or~~

~~3. Economic hardship or the fact that property may be utilized more profitably with a Variance.~~

~~F.~~D. ~~SUBSEQUENT DEVELOPMENT~~

~~Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Ordinance and/or any other applicable regulations. The granting of a Variance does not constitute and shall not be deemed to constitute a forecast that the development receiving a Variance will receive any other required approval.~~

~~G.~~E. ~~PROCEDURE~~

1. ~~APPLICATION REQUIREMENTS~~

   ~~The application must be filed with the Town Administrator.~~

2. ~~STAFF REVIEW~~

   ~~Upon receipt of a variance application, the Town Administrator shall first determine whether the application is complete, including the payment of all required application fees. If Town Administrator determines that the application is not complete, they shall notify the applicant in writing of the~~

~~reasons for such determination. Once a complete application has been received, the Town Administrator shall analyze the application in conjunction with qualified representatives of the Town and such other agencies or officials as may be appropriate, to determine conformity with the Comprehensive Land Use Plan, any other adopted plans, the provisions of this Ordinance, and other regulations applicable in the case. The Town Administrator shall schedule the complete application for the next available meeting of the Board of Adjustment.~~

3. ~~NOTICE OF PUBLIC HEARING~~
~~Written notice shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this ordinance~~
4. ~~PUBLIC HEARING~~
~~Following receipt of the application from the Town Administrator, the Board of Adjustment shall conduct a quasi- judicial public hearing on the application. After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record. The Board of Adjustment shall take one of the following actions, based on the standards in Section 3.11(C), GENERAL STANDARDS/FINDINGS OF FACT:~~
   (a) ~~Approve the application as submitted;~~
   (b) ~~Approve the application subject to conditions; or~~
   (c) ~~Deny the application.~~

~~The affirmative vote of at least four-fifths (4/5) of the members of the Board of Adjustment who are eligible to vote is required to grant a variance.~~

~~H.~~F. FORMALIZING THE OUTCOME

1. The Town Administrator shall cause a copy of the Decision to be delivered by certified mail to the applicant and any party who has filed a written request for a copy with the Town Administrator at the time of the hearing. ~~The applicant shall receive a written notification of the outcome or final decision by the Board of Adjustment at the conclusion of the review process.~~ The date the ~~of this~~ Decision is mailed ~~written notice~~ will initiate the appeal time limit ~~frame for the decision~~. The Town Administrator will certify such mailing to the Board of Adjustment's file on the matter.

2. If the Variance is granted, the ~~The~~ Town Administrator ~~applicant~~ will ~~also be required to~~ record the Decision ~~a notice of the Variance, which will be provided by the Town Administrator,~~ with the Carteret County Register of Deeds ~~in~~.

~~I.~~G. APPEAL

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An aggrieved person may appeal a decision by the Board of Adjustment on an application for a Variance to the Superior Court. Such appeal shall be in the nature of certiorari and must be filed within the time provided by N.C. Gen. Stat. § 160A-388(e2)(2).

~~J.~~H. **SUBSEQUENT DEVELOPMENT**

Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Ordinance and/or any other applicable regulations. The granting of a Variance does not constitute and shall not be deemed to constitute a forecast that the development receiving a Variance will receive any other required approval.

~~K.~~I. **MODIFICATIONS**

A Variance may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

~~L.~~J. **EXPIRATION**

~~Variance approval shall automatically expire if the applicant does not record the Variance with the Carteret County Register of Deeds within thirty (30) days after the date the Variance is approved.~~ Except where required as a prerequisite for a Site Plan associated with new development, an approved and recorded Variance shall run with the land. In cases where a Variance is a prerequisite to site plan approval, failure of an applicant to apply for a Zoning Compliance Permit and commence construction within one year of receiving Variance approval shall automatically render the decision of the Board of Adjustment null and void. Such time period shall not be extended with transfer of ownership.

3.12 APPEAL FROM ORDERS, ETC. OF THE TOWN ADMINISTRATOR

A. INTENT

This section establishes the process to be followed by the Board of Adjustment when it considers appeals from any order, requirement, decision, or determination made by the Town Administrator concerning the enforcement of this Ordinance.

B. APPLICABILITY

The Board of Adjustment shall hear an appeal taken by any aggrieved person regarding a decision or determination made by the Town Administrator concerning the enforcement of this Ordinance, within the times provided in this Section 3.12~~by this Ordinance~~.

C. GENERAL STANDARDS

In deciding appeals, the Board of Adjustment may hear those arguments based upon an allegedly improper or erroneous interpretation of the ordinance. The Board of Adjustment will:

1. Interpret the meaning of parts of this Ordinance, and
2. Apply the Ordinance provisions to particular fact situations in the application.

D. PROCEDURE

1. APPEAL REQUIREMENTS
   Unless another time is specifically established by this Ordinance, appeals shall be filed within thirty (30) days of the date of the determination being appealed.
2. The Town Administrator will state his interpretation of this Ordinance in a letter and serve a copy of the same by first class mail on (a) the owner of the subject property, and (b) the person requesting the interpretation if not the owner. The date of such mailing is the "date of determination" for purposes of appeal.

~~2.~~3. STAFF REVIEW
Upon receipt of an appeal, the Town Administrator shall first determine whether the application is complete, including the payment of all required application fees. If the Town Administrator determines that the application is not complete, ~~they~~he shall notify the appellant in writing of the reasons for such determination. The Town Administrator shall prepare a staff report detailing the situation involved in the appeal. Once a complete application has been received, the Town Administrator shall schedule the complete application for the next available meeting of the Board of Adjustment.

~~3.~~4. NOTICE OF PUBLIC HEARING
Written notice shall be mailed to the person or entity whose appeal, ~~application, or request~~ is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this ordinance

~~4.~~5. PUBLIC HEARING
Following receipt of the application from the Town Administrator, the Board of Adjustment shall conduct a quasi- judicial public hearing on the application. After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record. The Board of Adjustment shall take one of the following actions:

(a) Affirm, wholly or partly, the determination being appealed;
(b) Reverse, wholly or partly, the determination being appealed; or
(c) Modify the determination that is being appealed.

The Board of Adjustment may include direction to the appealed entity for how it should carry out the direction from the Board.

The affirmative vote of at least a majority ~~four-fifths (4/5)~~ of the members of the Board of Adjustment who are eligible to vote is required to reverse or modify the Town Administrator's interpretation of any provision of this Ordinance. ~~grant an appeal (overturn a determination).~~

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~~E.~~B. **FORMALIZING THE OUTCOME**

The Board of Adjustment's decision on the appeal shall be reduced to writing and transmitted to the appellant and other parties who have requested in writing a copy of the decision by first class mail.

~~F.~~C. **APPEAL**

An aggrieved person may appeal a decision by the Board of Adjustment on an application for appeal to the Superior Court. Such appeal shall be in the nature of certiorari and must be filed within the time provided by N.C. G.S. § 160A-388(e2)(2).

~~G. EXPIRATION~~

~~The decision on an appeal before the Board of Adjustment, if attached to a development approval, shall run with the approval period of that permit or approval.~~

3.13 ZONING COMPLIANCE PERMIT

A. INTENT

The intent of the Zoning Compliance Permit, also referred in areas of this ordinance as ~~just~~ a "zoning permit," is to provide written documentation of the completion of the development review processes under this Ordinance. This permit is a prerequisite to securing a Carteret County Building Permit. A Zoning Compliance Permit documents a project's compliance with this Ordinance without regard to any contractual or other arrangements (including, but not limited to restrictive covenants) among private parties, which may also affect the use of the property.

B. APPLICABILITY

It shall be unlawful to open a business, begin construction, place, or move any structure (including signs) or to begin to grade or excavate ~~for immediate construction~~ until the Town Administrator has issued for such activity ~~work~~ a Zoning Compliance Permit. A Zoning Compliance Permit signifies a determination that the site plan, building specifications and the intended use of such structure or land conform in all respects to the provisions of this Ordinance.

Also, it shall be unlawful to change the type of use or type of occupancy of any building, or to alter or extend any use of any lot on which there is a non-conforming use, until the Town Administrator has issued for such intended use a Zoning Compliance Permit, including a determination that the proposed use conforms in all respects to the provisions of this Ordinance.

C. GENERAL STANDARDS/FINDINGS OF FACT

The application materials, as specified in Section 3.5 of this Ordinance, when taken together provide sufficient evidence for the Town Administrator to conclude that the project, with reasonable conditions, will comply with the provisions of this ordinance.

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D. PROCEDURE

If the proposed excavation, construction, relocating, alteration, or use of land as set forth in the application is in conformity with the provisions of this Ordinance, the Town Administrator shall issue a Zoning Compliance Permit; however,

1. Issuance of a Zoning Compliance Permit shall in no case be construed as waiving any provision of this Ordinance.
2. Under no circumstances is the Town Administrator permitted to vary the terms of this Ordinance, deviate from the apparent meaning of any clause, standard, or regulation contained in this Ordinance, or otherwise afford special treatment to any person making application to excavate, construct, move, alter, or use either buildings, structures, or land.
3. Under no circumstances is the Town Administrator permitted to make any changes to this Ordinance.
4. The Town Administrator shall issue a Stop Work Order if a project is found to be under construction without a Zoning Compliance Permit, if a Zoning Compliance Permit is revoked in accordance with Section 3. 13(J), REVOCATION, or if work being undertaken is contrary to this Ordinance or any permit issued pursuant to this Ordinance.

E. FORMALIZING THE OUTCOME

The Town Administrator shall issue a permit when the applicable provisions of this Ordinance are satisfied.

If an application for such a permit is not approved, the Town Administrator shall state in writing the reason(s) for such denial.

F. APPEAL

Persons aggrieved by a decision or a determination made by the Town Administrator may appeal that action to the Board of Adjustment, following the procedures established in *Section 3.12, APPEAL*.

~~**G. VESTING**~~

~~The issuance of a Zoning Compliance Permit does confer a statutory vested right unless the permit is revoked according to *Section 3. 13(H), DEVIATIONS*, as described below or if permit is revoked for any other reason.~~

~~H.~~G. DEVIATIONS

If a site inspection reveals an activity ~~work undertaken~~ that does not comply with conditions and specifications of an approved Zoning Compliance Permit, the approved permit may be revoked or a stop work ordered issued. Such stop work order shall remain in effect until the Town Administrator determines that the work is in compliance with the provisions of this Ordinance and the Administrative Manual.

~~I.~~H. MODIFICATIONS

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A Zoning Compliance Permit may be modified at the request of the applicant at any time before it expires. Such modification must comply with all provisions of this ordinance and the Administrative Manual. All modifications must be documented in writing.

~~J.~~I. **REVOCATION**

The Town Administrator shall revoke a Zoning Compliance Permit if it is found to be issued in violation of any provisions of this Ordinance, or if the conditions stated on the permit are not satisfied.

~~K.~~J. **EXPIRATION**

If the start of construction has not commenced within one hundred eighty (180) days from the date of issuance of a Zoning Compliance Permit, the Zoning Compliance Permit and the approval of that site plan shall expire. If, after commencement, the work is discontinued for a period of twelve (12) months, the permit and site plan shall immediately expire. No work authorized by any permit or site plan that has expired shall be performed until a new site plan has been approved and a new building permit issued and all applicable fees paid

3.14 CONDITIONAL REZONING

A. AUTHORITY

The Town may establish conditional zoning districts ~~by means of conditional zoning~~ in accordance with N.C.G.S. 160A-382.

B. PURPOSE

Occasionally an owner of a property proposes a specific use for his property that may be a permitted or special use within a specified zoning district and may be compatible with surrounding properties and the comprehensive plan, but other permitted or special uses in the specified zoning district are not equally compatible. In order to accommodate this situation, this Section 3.14 establishes the Conditional Zoning District process. The process allows the Town of Cedar Point Board of Commissioners to approve a rezoning proposal for a specific use within a zoning district with reasonable conditions to assure the compatibility of this use with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding specific zoning district. This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time. ~~In cases where the standards of a general (base) zoning district are inadequate to ensure that development allowed by the district will conform to the Town's adopted plans or to appropriately address the impacts expected to be generated by such development, a landowner may apply for a Conditional Rezoning. Such rezoning establishes a conditional zoning district that is equivalent to the general (base) zoning district, but subject to additional conditions or restrictions that the applicant and the Town mutually agree are necessary to ensure~~

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~~conformance to adopted plans and adequately address expected development impacts. The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish conditional zoning districts.~~

C. INITIATION

In accordance with the North Carolina General Statutes, an application for a Conditional Zoning District r~~R~~ezoning may be initiated only by the owner(s) or a duly authorized representative of the property owner of all the property included in the proposed conditional zoning district.

D. PROCEDURE

1. BASIC PROCEDURES
   (a) Except as modified by *Section 3.14(D)(2)-(10)* below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on applications are as established in in this Ordinance for rezonings.
   (b) Specific steps to be completed before any Public Hearing on the application include:
      i. Pre-Application Conference with Town Staff
      ii. Informational Meeting with area residents and property owners
      iii. Submittal of complete application
      iv. Staff Review and Report on the complete application
2. PRE-APPLICATION CONFERENCE ON SITE PREFERRED
   For C~~c~~onditional Zoning District rezoning requests, the pre-application conference required shall include a meeting with the Town Administrator, preferably on-site, to discuss a Sketch Plan of the proposed development conditions and to identify possible unique situations that should be incorporated into the Sketch Plan prior to filing for rezoning.
3. INFORMATIONAL MEETING REQUIRED
   After the Pre-Application Conference, but before the submittal of a formal application, an Informational Meeting shall be held in accordance with the requirements set forth in the Ordinance.
4. APPLICATION TO INCLUDE CONDITIONS FOR DEVELOPMENT
   The application shall include a Sketch Plan that depicts the conditions upon which the property will be developed, including the general configuration and relationship of the principal elements, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, storm water management, and open space. The application shall include mapped and written conditions proposed by the applicant consistent with the provisions of *Section 3.14(D)(9), CONDITIONS OF APPROVAL*.
5. APPLICATION MAY INCLUDE VESTED RIGHTS REQUEST
   The applicant may request approval of the application to establish a vested right in accordance with *N.C.G.S. §* 160A-385.1. Concurrent with the application for a conditional rezoning, the application shall include a written request for such a vested right and a plan that shows at least the information specified be the North Carolina General Statute definition of a site-specific

development plan.

6. APPLICATION MAY INCLUDE SPECIAL USE PERMIT. If the proposed use requires a Special Use Permit, the application shall include all information needed for such permit and the Town will process and act on the Special Use Permit application in conjunction with the Conditional Zoning District rezoning procedure.

~~6.~~7. REVIEW AND STAFF REPORT BY TOWN ADMINISTRATOR
Before review by the Planning Board the application shall be reviewed by the Town Administrator, who may suggest revisions to the proposed conditions, consistent with the provisions of *Section 3.14(D)(10~~9~~), CONDITIONS OF APPROVAL*. Only those revisions agreed to in writing by the applicant shall be incorporated into the application and may be reflected in the Staff Report.

8. REVIEW AND RECOMMENDATION BY PLANNING BOARD
   (a) Following staff review, the Planning Board shall conduct a hearing on the application. After close of the hearing, the Planning Board will make a decision based upon the application, consistency with the Comprehensive Plan, relevant support materials, the staff report, and any comments given by the public. Upon making a decision, the Planning Board, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions, based on the standards in *Section 3.14(F), CONDITIONAL REZONING STANDARDS*:
      i. Approval of the application subject to the conditions included in the application;
      ii. Approval of the application subject to any revised or additional conditions agreed to by the applicant, in writing;
      iii. Denial of the application; or
      iv. Continuance of the hearing.

   (b) As part of its review of the application, the Planning Board may suggest revisions to the proposed conditions, consistent with the provisions of *Section 3.14(D)(10~~9~~), CONDITIONS OF APPROVAL*. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

   (c) In making its recommendation, the Planning Board shall adopt a written Statement of Consistency and Reasonableness that:
      i. describes whether the decision is consistent with all Town-adopted plans that are applicable; and
      ii. explains why the decision is reasonable and in the public interest.

9. PUBLIC HEARING, REVIEW, AND DECISION BY TOWN COMMISSIONERS
   (a) Following staff review and receipt of the Planning Board's recommendation, the Town Commissioners shall conduct a standard, legislative public hearing on the application. After close of the hearing, the Town Commissioners shall consider the application, consistency

with the Comprehensive Plan, relevant support materials, the staff report, the Planning Board recommendation, and any comments given by the public.

(b) As part of its review of the application, the Town C Commissioners shall review the proposed conditions and may suggest revisions to the proposed conditions, consistent with the provisions of *Section 3.14(D)(10~~9~~), CONDITIONS OF APPROVAL*.

(c) Regardless of its decision on the proposed amendment, the Town Commissioners will render a decision based upon a Statement of Consistency and Reasonableness that:

i. describes whether the decision is consistent with all Town-adopted plans that are applicable;
and

ii. explains why the decision is reasonable and in the public interest

10. CONDITIONS OF APPROVAL

(a) Only conditions mutually agreed to by the owners of the property to be rezoned and the Town may be applied to a conditional ~~re~~zoning district

(b) Conditions shall be limited to those that address conformance of development and use of the site with Town regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site

(c) Conditions may be in the form of text or of plans and maps

(d) No condition shall be less restrictive than the standards of the ~~parallel~~ general use (base) zoning district sought, any applicable overlay zoning district standard, or other applicable requirement of this Ordinance.

11. EXPIRATION

(a) If the Conditional Zoning District is approved and is conditioned on subdivision of all or part of the land, and if ~~If~~ no application for approval of a Subdivision Preliminary Plat or Site Plan (Major or Minor) for any part of the rezoned land is submitted with two years after approval of the c~~C~~onditional r~~R~~ezoning, the Town Administrator shall initiate a Map Amendment (Rezoning) application to rezone the land back to its prior zoning classification or any other base zoning classification determined to be appropriate. A change in ownership of the land shall not affect this time period. However, this period may be approved for up to five (5) years under relevant circumstances as provided below.

(b) For some developments, Town Commissioners may provide that the expiration period established above may exceed two (2) years but shall not exceed five (5) years, as warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. Such a determination shall be in the sound discretion of the Town Commissioners. As a condition of approval when an extended expiration period is requested, the Town may require the applicant to submit a phased development plan.

(c) Upon written request submitted at least thirty (30) days before expiration of the timeframe provided above, and upon a showing of good cause, the Planning Director may grant one (1) extension not to exceed six (6) months for the applicant to submit required development applications.

E. CITIZEN COMMENT

~~Zoning ordinances, boundaries, and classification may from time to time be amended, supplemented, changes, modified or replaced.~~ If any resident or property owner in the Town submits a written statement regarding a rezoning of property to a Conditional Zoning District~~proposed amendment, modification, or repeal to the zoning ordinance, boundaries and/or classification to~~ the town clerk ~~to the board~~ at least two (2) business days prior to the proposed vote on such change, the clerk ~~to the board~~ shall deliver such written statement to the Board of Commissioners. If the proposed rezoning ~~change~~ is also subject to a quasi-judicial proceeding under N.C.G.S. §160A-388, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from ~~form~~ voting.

F. CONDITIONAL REZONING STANDARDS

Review of and the decision on a Conditional Zoning District r~~R~~ezoning application shall be subject to the Map Amendment (Rezoning) Standards.

G. EFFECT OF APPROVAL

Lands rezoned to a conditional zoning district shall be subject to the standards applicable to the ~~parallel~~ general use (base) zoning district sought, as modified by the more restrictive conditions proposed by the applicant and approved by the Town Commissioners. The applicant shall record the restrictive conditions of approval executed by the town and the owner with the Register of Deeds within thirty days after approval thereof, or within such additional time as the Town Commissioners may approve.~~,~~ The Conditional Zoning District rezoning is not effective until the restrictive conditions are recorded. These standards and modifying conditions are binding on the land as an amendment to this Ordinance and the Official Zoning Map. The applicant may apply for and obtain subsequent

development permits and approvals only in accordance with the approved conditions and appropriate procedures and standards set forth in this Ordinance.

H. MINOR DEVIATIONS FROM CONDITIONS

1. Subsequent plans and permits for development within the Conditional Zoning District may include minor deviations from the approved conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the Conditional Rezoning review process or any other change that has no material effect on the character of the approved conditional zoning district or any of its approved terms and conditions. The following shall constitute examples of minor deviations:
   (a) Floor plan revisions internal to the structure
   (b) Minor shifts in building size or location; and
   (c) Facility design modifications for amenities and the like

2. Changes that materially affect the basic configuration or intent of approved conditions are not considered minor deviations, and shall be amendments that may only be considered in accordance with the procedure used to establish the conditional zoning district

I. DESIGNATION ON OFFICIAL ZONING MAP

Designation of a conditional zoning district on the Official Zoning Map shall bear the same designation as the ~~parallel~~ general use (base) zoning district for the property but shall also include the suffix "CZ" along with the case number approving the Conditional Rezoning.

3.15 TYPOGRAPHICAL ERRORS

Typographical errors, spelling changes, numerical reference errors, errors in section or page numbering or other purely non-substantive editorial changes may be corrected by the Town Administrator without formal adoption by the Board of Commissioners provided that such corrections do not change the meaning of the Ordinance. Any correction made pursuant to this section shall be reported in writing to the Board of Commissioners and made a part of the Board's regular meeting minutes.

3.16 UNIFIED DEVELOPMENT ORDINANCE UPDATES

The Town shall schedule public input sessions, review, and update this UDO at regular intervals. ~~that do not exceed five years beginning with the initial adoption.~~

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Chris Seaberg

From: Neil Whitford <Nwhitford@kirkmanwhitford.com>
Sent: Friday, January 04, 2019 5:14 PM
To: Chris Seaberg
Subject: UDO Chapters 4, 5, 5A, and 6
Attachments: CP UDO Chapter 4 NBW redline 01.19.docx; CP UDO Chapter 6 NBW redline 01.19.docx; CP UDO Chapters 5 & 5A NBW redline 01.19.docx

Chris:

Attached are my proposed edits to the above chapters. I think most are self explanatory.

Please note that I am suggesting what I think are common sense changes to the table of permitted and special uses. (For example, I can think of no reason an antique shop should be a special use in the commercial districts so I am recommending P for permitted.) In fact I think the PB should carefully go through the use table to make sure the Ps and Ss make sense!

I took the Flood Prevention section out of Chapter 5 and made it a separate Chapter 5A. Chapter 5 deals with zoning districts and the flood zones are not technically zoning districts.

The edits are now going much quicker.

Neil

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Chapter 4 – Enforcement

4.1 PURPOSE

This article establishes procedures through which the Town seeks to ensure compliance with the provisions of this Ordinance. It also sets forth the remedies and penalties for violations of this Ordinance. The provisions of this chapter are intended to encourage the voluntary correction of violations, where possible.

4.2 AUTHORITY

As provided by NCGS § 160A-389, as amended, if any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the Town, in addition to other remedies, may institute appropriate action or proceedings, including civil penalties, to prevent the unlawful action or use, to restrain, correct or abate any violation, to prevent the occupancy of the building, structure or land or to prevent any illegal act, conduct, business or use in or about the premises. The Town of Cedar Point shall have the power to impose civil penalties as provided in NCGS § 160A-175(a), (c) (g) and NCGS § 160A-389, as amended.

4.3 APPLICABILITY

This Ordinance shall apply to all property within the corporate limits of the Town of Cedar Point and its area of Extraterritorial Jurisdiction (ETJ). Unless otherwise specified, the Enforcement Officer shall have the authority to administer and enforce the provisions of the Ordinance within this area.

4.4 ENFORCEMENT OFFICER

The word Enforcement Officer shall mean the Town Administrator or his/her designee and, when applicable, the Building Inspector. The Enforcement Officer may enter any building, structure, or premises as provided by law, to perform any duty imposed upon him/her by this ordinance.

4.5 VIOLATIONS

Any violation of this ordinance shall be subject to the enforcement remedies and penalties provided by this chapter and by state law. Each day's violation of any provision of this ordinance is a separate and distinct offense.

4.6 RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, engineer, 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 may be held responsible for the violation and be subject to the penalties provided herein.

4.7 ENFORCEMENT PROCEDURES

Upon the Enforcement Officer's determination that any provision of this Ordinance has been violated, a written notice shall be delivered by personal service or by registered or certified mail, return receipt requested, to the property owner, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Town Administrator's discretion.

The final written notice, delivered by certified mail, which may also be the initial notice, shall state the action the Town Administrator intends to take if the violation is not corrected, and shall advise that the Town Administrator's order may be appealed to the Board of Adjustment within thirty (30) days of final written notice.

Once the final written notice is delivered, the penalties covered in *Section 4.8* shall apply.

Suspected violations and complaints can be reported to the Town Administrator in writing. Complainants who provide contact information will be apprised of the outcome of the investigation whereas anonymous complainants will not.

4.8 PENALTIES

A. CIVIL PENALTY

Any person, firm, or corporation who violates any provision of this Ordinance shall be subject to a civil penalty in the ~~an~~ amount of ~~not to exceed~~ $500.00; however, if a different civil penalty is provided in this Ordinance for a violation of a specific chapter or provision, the specific penalty will apply .

1. Civil penalties shall be assessed by written notice from the Town Administrator, or his/her designee, to the offender describing the violation and the amount of the penalty. The Town Administrator has the authority to reduce the amount of civil penalty if he determines that the prescriptive penalty exceeds the amount necessary to compensate the public for the violation or to encourage future compliance. ~~The amount of penalty shall be determined by the Town Administrator and shall be commensurate with the violation.~~ Where applicable, the notice shall state that each day the violation continues shall be an additional and separate violation subject to the same daily civil penalty set forth in the notice. The notice shall further state that no additional notice will be sent for continuing violations and penalties.

2. The notice shall inform the recipient that he or she, within ten days of receipt of notice of the violation, may in writing request a hearing before the Town Administrator on the notice of violation and assessment of the penalty. If a request for hearing is made, the Town Administrator shall schedule the hearing as soon as practical. Following the hearing, the Town Administrator in writing shall affirm, reverse, or modify the notice of violation and shall have the authority to reduce or reverse the imposition of the penalty assessed.
3. The decision of the Town Administrator may be appealed by written notice to the Board of Adjustment~~Commissioners~~. Notice of appeal to the Board must be given to the Town Clerk within ten days of the date of the Town Administrator's written decision. If an appeal is made, a hearing shall be held before the Board of Adjustment ~~Commissioners~~ as soon as practical. The Board, by a written order entered as soon after the hearing as practical, shall affirm, reverse, or modify the notice of violation and shall have the authority to reduce or reverse the imposition of the penalty assessed.
4. Civil penalties shall be paid to the Town within 30 days after the assessment is made if no hearing is requested, or within 30 days after the assessment is affirmed if a hearing by the Town Administrator is requested or an appeal to the ~~Town~~ Board of Adjustment is made. If not so paid, the Town may initiate a civil action in the nature of collection of a debt to collect any unpaid penalty.
5. The person, firm, or corporation who violates any provision of this Ordinance shall be subject to the civil penalty provided herein; however, there is a rebuttable presumption that the owner of property where a violation occurs is responsible for the violation.
6. Payment of a civil penalty shall not be evidence of, or an admission of, criminal guilt.

B. MISDEMEANOR OFFENSE

If any person shall violate any provision of this Article, he shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $500.00.

C. EQUITABLE REMEDIES

Any provision of this Ordinance may be enforced by injunction, order of abatement, or any other appropriate equitable remedy. When a violation of this Ordinance occurs, the Town may apply to the appropriate division of the General Court of Justice for an appropriate equitable remedy and it shall not be a defense to the application that there is an adequate remedy at law.

D. ENFORCEMENT

The provisions of this Code may be enforced by any one, all or a combination of the

remedies authorized and prescribed by this section, and/or the General Statutes of North Carolina.

E. CONTINUING VIOLATION

Except as otherwise specifically provided, each day's continuing violation of this Article shall be a separate and distinct offense.

Chapter 5 – Zoning Districts

5.1 GENERAL PROVISIONS

A. TYPES OF ZONING DISTRICTS

All land within the Town of Cedar Point is classified by this Ordinance to be within one of the several Base Zoning Districts listed in *Section 5.2*.

B. OVERLAY ZONING AREAS AND RELATIONSHIP TO ZONING DISTRICTS

Land within any base zoning district may first be classified into one or more Overlay Zoning areas, as listed in *Section 5.9, OVERLAY ZONING DISTRICTS*. Regulations governing development in an overlay area shall supersede the regulations governing development in the underlying district.

C. COMPLIANCE WITH DISTRICT STANDARDS

No land within the Town shall be developed except in accordance with the zoning district use, development standards, and requirements of this chapter and all other regulations of this Ordinance, as applicable.

5.2 BASE ZONING DISTRICTS ESTABLISHED

Table 5.2.1, BASE ZONING DISTRICTS, sets out the base zoning districts established by this Ordinance.

TABLE 5.2.1 BASE ZONING DISTRICTS

Abbreviation	Zoning District
RA	Rural Agricultural
R-20	Residential
R-15	Residential
R-	Residential
R-10	Residential
B-3	Planned Business
B-2	Marine Business
B-1	General Business
MC	Planned Mobile Home and RV Park
LIW	Light Industrial and Wholesale
IW	Industrial and Wholesale

HSCD	Human Services Campus District
MXD	Mixed Use District

5.3 RESIDENTIAL BASE ZONING DISTRICTS

A. RA RURAL AGRICULTURAL DISTRICT

1. INTENT

This district encompasses those lands that are primarily suited for agriculture, agriculturally related uses, and low-density residential uses in environmentally sensitive areas.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of fifty thousand (35,000) square feet is required for all uses

(b) Minimum lot width shall be one hundred-fifty (150) feet

(c) Minimum depth of the front yard shall be fifty (50) feet

(d) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than twenty (20) feet.

(e) Minimum depth of the rear yard shall be thirty (30) feet

(f) Maximum height of structures shall be forty (40) feet

(g) A Traffic Impact Analysis ("TIA") shall be required for residential developments proposed within Town of Cedar Point that have an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

B. R-20 RESIDENTIAL DISTRICT

1. INTENT

A residential district established to maintain a density of approximately two units per acre with a 20,000 square foot minimum

lot size.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of twenty thousand (20,000) square feet is required for all uses

(b) Minimum lot width shall be one hundred (100) feet

(c) Minimum depth of the front yard shall be thirty (30) feet

(d) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than twenty (20) feet.

(e) Minimum depth of the rear yard shall be thirty (30) feet

(f) Maximum height of structures shall be forty (40) feet

(g) A TIA shall be required for residential developments proposed within Town of Cedar Point that have an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

C. R-15 RESIDENTIAL DISTRICT

1. INTENT

A residential district requiring a minimum of 15,000 square feet per lot if public water or sewer is available.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of fifteen thousand (15,000) square feet is required for all uses if public water or sewer is available. If public water or sewer is not available, a minimum lot area of twenty thousand (20,000) square feet shall be required.

(b) Minimum lot width shall be eighty (80) feet

(c) Minimum depth of the front yard shall be twenty (20) feet

(d) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no

less than twenty (20) feet.

(e) Minimum depth of the rear yard shall be twenty-five (25) feet

(f) Maximum height of structures shall be forty (40) feet

(g) A TIA shall be required for residential developments proposed within Town of Cedar Point that have an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

D. R-15M RESIDENTIAL DISTRICT

1. INTENT

A residential district requiring a minimum of 15,000 square feet per lot if public water or sewer is available. This district allows manufactured homes or residential structures built in accordance with all applicable Building Codes.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of fifteen thousand (15,000) square feet is required for all uses if public water or sewer is available. If public water or sewer is not available, a minimum lot area of twenty thousand (20,000) square feet shall be required.

(b) Minimum lot width shall be eighty (80) feet

(c) Minimum depth of the front yard shall be twenty (20) feet

(d) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than twenty (20) feet.

(e) Minimum depth of the rear yard shall be twenty-five (25) feet

(f) Maximum height of structures shall be forty (40) feet.

(g) A TIA shall be required for residential developments proposed within Town of Cedar Point that have an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

E. R-10 RESIDENTIAL DISTRICT

1. INTENT

A residential district allowing a minimum of 10,000 square feet if public water and sewer facilities are available or 15,000 square feet if only public water or only sewer facilities are available and 20,000 square feet if neither service is available.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of ten thousand (10,000) square feet is required for all uses if public water and sewer is available. A minimum lot area of fifteen thousand (15,000) square feet is required for all uses if only public water or only sewer is available. If public water or sewer is not available, a minimum lot area of twenty thousand (20,000) square feet shall be required.

(b) Minimum lot width shall be forty-five (45) feet. If neither public water nor sewer are available then the minimum lot width shall be eighty (80) feet.

(c) Minimum depth of the front yard shall be twenty (20) feet

(d) Minimum depth of the side yard shall be ten (10) feet.

(e) In case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than twenty (20) feet.

(f) If a lot is bordered by both NC Highway 24/Cedar Point Blvd. and the White Oak River, then the minimum depth of the side yard shall be five (5) feet.

(g) Minimum depth of the rear yard shall be twenty-five (25) feet.

(h) Maximum height of structures shall be forty (40) feet.

(i) A TIA shall be required for residential developments proposed within Town of Cedar Point that have an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

5.4 BUSINESS BASE ZONING

A. B-3 PLANNED BUSINESS DISTRICT

1. INTENT

The B-3 Planned Business District has been established to create a district exclusively for retail shopping center complexes.

2. GENERAL PROVISIONS

All permitted and special uses within the B3 Planned Business District unless otherwise specified shall comply with the provisions below:

(a) Exterior storage and sales areas ancillary to permitted uses shall be allowed if screened from exterior public rights-of-way on the rear and side property lines, and from adjacent residential areas.

(b) The uses permitted for incidental manufacturing and/or repair or service are permitted only where no obnoxious odors, aromas, fumes, or loud noises, or other side effects created which would be detrimental to the health, safety and welfare of the surrounding businesses.

(c) A twelve-foot wide paved access, which can be used as a fire lane, shall be provided along each of the four (4) sides of buildings greater than ten thousand (10,000) square feet in area. Off-street loading and unloading areas shall be provided in accordance with this ordinance and shall be marked so as to be distinguished from driveways and parking areas. Required loading areas shall be designed so as not to block the fire lane.

(d) Screened dumpsters shall be provided.

(e) Handicapped ramps shall be provided adjacent to handicapped parking spaces.

(f) A sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six (6) inches shall connect all commercial establishments within each building. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.

(g) A minimum pedestrian walkway of six (6) feet in width shall be provided in front of a retail store or group of stores greater than ten thousand (10,000) square feet in area.

(h) A minimum of four hundred (400) feet of frontage along a street shall be required before two (2) access ways are permitted to the same street. A minimum of six hundred (600) feet of frontage shall be required before three (3) access ways are permitted. No

shopping center shall have more than three (3) access ways to one (1) street. The access ways shall comply with the following standards:

i. Access ways shall not be less than thirty (30) feet or more than forty (40) feet in width at their intersection with the property line;

ii. The principal access ways shall have an exit lane for left turns where permitted and an exit lane for right turns and one (1) entrance lane. The lanes shall be appropriately marked as to exit and entrance;

iii. At its intersection with the property line, an access way shall not be less than one hundred (100) feet from another access way or fifty (50) feet from a corner of the property. Notwithstanding, at least one (1) access way will be allowed for each shopping area.

(i) Each shopping center with its buildings, parking lots, and driveways shall be physically separated from each adjoining street by a curb or other suitable barrier to prevent unchanneled vehicular ingress or egress.

(j) If the shopping center is to be constructed in progressive stages, no occupancy permit will be granted for any one (1) stage until all site improvements and conditions assigned to the stage being constructed are completed.

(k) A buffer shall be maintained along property lines abutting any neighboring lots not a part of the shopping center in accordance with Section 7.3 BUFFERS.

(l) Public restrooms shall be provided in a convenient and easily identifiable location at the developer's expense.

(m) Freestanding buildings. Separation between buildings or groups of buildings shall be a minimum of twenty (20) feet where buildings are side by side and have no natural lighting requirements in the space adjacent to the separation between buildings. Where buildings face one another, the minimum distance between the face of buildings, not inclusive of any canopy or overhangs, shall be thirty-five (35) feet, a minimum of a twenty-foot space must be left as access areas for fire trucks with a head clearance of at least sixteen (16) feet.

(n) Connected buildings. In order to provide fire protection for buildings that house a group of stores within one (1) or more

connected buildings, there shall be areas for fire protection so as to serve both the front and rear of such connecting buildings.

(o) A pre-application conference shall be held between the Town Administrator or his/her designee and the applicant.

(p) Predominate exterior building materials on a façade visible from a public street shall be of brick, textured masonry unit, stucco, stone, wood, cement fiber material (such as "Hardie board"), glass or the equivalent. No concrete masonry units, such as concrete blocks or cinder blocks, are permitted when visible from a public street unless they are textured to give the appearance of rough stone. ~~high quality, including brick, wood, or textured masonry units.~~ The applicant shall provide the Town with a visual rendition of the proposed development showing the building façade, parking areas, and all applicable landscaping for the development.

(q) Fire Hydrant Requirement: Unless listed within the exceptions listed in Section 5.4(A)(2)(q)(a) & (b) of the North Carolina Fire Prevention Code (2012), where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants shall be provided where required.

a. Uses listed under Group R-3 and Group U occupancies in the North Carolina Fire Prevention Code (2012) are permitted to be within 600 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building.

b. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the North Carolina Fire Prevention Code (2012), the building(s) shall be no further than 600 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building

(r) A Traffic Impact Analysis (TIA) shall be required for commercial type developments proposed within Town of Cedar Point with an estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average

as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

3. **DIMENSIONAL REQUIREMENTS**

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of thirty thousand (30,000) square feet shall be required.

(b) Minimum lot width shall be one hundred (100) feet.

(c) Minimum depth of the front yard shall be forty (40) feet, unless structure is mixed use.

(d) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot or a lot adjacent to a residential zoning district or use, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way or a residential zoning district or use shall be no less than fifteen (15) feet.

(e) Minimum depth of the rear yard shall be twenty-five (25) feet.

(f) Maximum height of structures shall be forty-five (45) feet.

(g) Maximum square footage:

i. Any single commercial building construction, excluding schools, churches or government buildings, shall not exceed fifty thousand (50,000) square feet of total structural building area, whether on one floor or multiple floors, including all attached portions, on any single parcel of land; except any building and its use existing at the time of the adoption of this Ordinance shall be grandfathered and allowed to remain.

ii. Connected commercial buildings on a single parcel of land shall be limited to a maximum total square footage of one hundred thousand (100,000).

B. B-2 MARINE BUSINESS DISTRICT

1. INTENT

A business district established for marine-related businesses.

(a) Predominate exterior building materials on a façade visible from a public street shall be of of brick, textured masonry unit, stucco, stone, wood, cement fiber material (such as "Hardie board"), glass or the equivalent. No concrete masonry units, such as concrete blocks or cinder blocks, are permitted when visible from a public street unless they are

textured to give the appearance of rough stone. ~~high quality, including brick, wood, or textured masonry units.~~ The applicant shall provide the Town with a visual rendition of the proposed development showing the building façade, parking areas, and all applicable landscaping for the development.

(b) Fire Hydrant Requirement: Unless listed within the exceptions listed in Section 5.4(B)(1)(b)(i) & (ii) of the North Carolina Fire Prevention Code (2012), where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants shall be provided where required.

i. Uses listed under Group R-3 and Group U occupancies in the North Carolina Fire Prevention Code (2012) are permitted to be within 600 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building.

ii. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the North Carolina Fire Prevention Code (2012), the building(s) shall be no further than 600 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building

(c) A Traffic Impact Analysis (TIA) shall be required for commercial type developments proposed within Town of Cedar Point with an estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of fifteen thousand (15,000) square feet shall be required if only public water or only public sewer is

available, twenty thousand (20,000) square feet shall be required if no public water or sewer is available. If both services are available then a minimum lot area of ten thousand (10,000) square feet shall be required.

(b) Minimum lot width shall be eighty (80) feet.

(c) Minimum depth of the front yard shall be forty (40) feet, unless structure is mixed use.

(d) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot or a lot adjacent to a residential zoning district or use, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way or a residential zoning district or use shall be no less than fifteen (15) feet.

(e) Minimum depth of the rear yard shall be fifteen (15) feet.

(f) Maximum height of structures shall be forty (40) feet.

(g) Minimum amount of required open space shall be thirty-five (35) percent.

(h) Maximum allowable project coverage area, to include all built upon areas, parking areas, and impervious surface areas, shall be sixty-five (65) percent.

(i) Maximum square footage:

i. Any single commercial building construction, excluding schools, churches or government buildings, shall not exceed thirty-five thousand (35,000) square feet of total structural building area, whether on one floor or multiple floors, including all attached portions, on any single parcel of land; except any building and its use existing at the time of the adoption of this Ordinance shall be grandfathered and allowed to remain.

ii. Connected commercial buildings on a single parcel of land shall be limited to a maximum total square footage of fifty thousand (50,000).

C. B-1 GENERAL BUSINESS DISTRICT

1. INTENT

A business district intended for the use of general businesses, mixed use, and other related uses.

(a) Predominate exterior building materials on a façade visible from a public street shall be of brick, textured masonry unit, stucco, stone, wood, cement fiber material (such as "Hardie

board"), glass or the equivalent. No concrete masonry units, such as concrete blocks or cinder blocks, are permitted when visible from a public street unless they are textured to give the appearance of rough stone. ~~high quality, including brick, wood, or textured masonry units.~~ The applicant shall provide the Town with a visual rendition of the proposed development showing the building façade, parking areas, and all applicable landscaping for the development.

(b) Fire Hydrant Requirement: Unless listed within the exceptions listed in Section 5.4(C)(1)(b)(i) & (ii) of the North Carolina Fire Prevention Code (2012), where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants shall be provided where required.

i. Uses listed under Group R-3 and Group U occupancies in the North Carolina Fire Prevention Code (2012) are permitted to be within 600 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building.

ii. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the North Carolina Fire Prevention Code (2012), the building(s) shall be no further than 600 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area of fifteen thousand (15,000) square feet shall be required if only public water or only public sewer is available, twenty thousand (20,000) square feet shall be required if no public water or sewer is available. If both services are available then a minimum lot area of ten thousand (10,000) square feet shall be required.

(b) Minimum lot width shall be eighty (80) feet.

(c) For structures containing a mixture of uses or a business

residence, the minimum setback shall be fifteen (15) feet from back of existing or proposed curb, whichever is greater. If the existing right-of-way is greater than the minimum setback from the back of existing or future curbs, the right-of-way line will become the minimum setback. If the existing curb line varies, the setback shall be measured from the widest section. However, if new construction incorporates an existing structure located within the required setback, the setback for the addition may be reduced to the established setback but in no event be less than ten (10) feet from the back of the existing curb.

(d) For the purposes of this section, the setback applies to all street frontages, not just to the street toward which the structure is oriented. All new transformer vaults, utility structures, air vents, backflow preventers, or any other similar devices, including such facilities, must be behind the setback. No new doors shall be allowed to swing into the setback except emergency exit doors.

(e) For all other structures, the minimum depth of the setback shall be forty (40) feet, unless structure has a mixture of uses~~is mixed use~~.

(f) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot or a lot adjacent to a residential zoning district or use, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way or a residential zoning district or use shall be no less than fifteen (15) feet.

(g) Minimum depth of the rear yard shall be twenty (20) feet

(h) Maximum *height* of *structures* shall be forty (40) feet

(i) Maximum square footage:

i. Any single commercial building construction, excluding schools, churches or government buildings, shall not exceed twenty-five thousand (25,000) square feet of total structural building area, whether on one floor or multiple floors, including all attached portions, on any single parcel of land; except any building and its use existing at the time of the adoption of this Ordinance, if otherwise in conformity with all other provisions of this Ordinance, shall be deemed conforming ~~grandfathered~~ and allowed to ~~remain~~ be repaired regardless of the amount of damage or destruction .

ii. Connected commercial buildings on a single parcel of land shall be limited to a maximum total square footage of twenty-five thousand (25,000).

(j) A Traffic Impact Analysis (TIA) shall be required for commercial type developments proposed within Town of Cedar Point with an estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

5.5 MOBILE HOME AND CAMP PARK BASE ZONING DISTRICTS

A. MC PLANNED MOBILE HOME AND RV PARK DISTRICT

1. INTENT

A district allowing for the development of Manufactured Home Parks and Recreation Vehicle "RV" Parks.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) A minimum lot area necessary to comprise a mobile home park or a RV park of three (3) acres shall be required.

(b) There is no minimum lot width required.

(c) Minimum depth of the front yard shall be forty (40) feet

(d) Minimum depth of the side yard shall be ten (10) feet. In case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than twenty (20) feet.

(e) Minimum depth of the rear yard shall be fifteen (15) feet.

(f) Maximum height of structures shall be forty (40) feet.

(g) A TIA shall be required for residential developments proposed within Town of Cedar Point that have an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this

Ordinance.

3. **PLAN APPROVAL PROCEDURES**

No person shall construct a Mobile Home Park or Recreation Vehicle "RV" Park or make any addition to a Mobile Home Park or Recreation Vehicle "RV" Park that either alters the number of sites for mobile homes or Recreation Vehicles "RV's" within the park or affects the facilities required therein until all required approvals and permits authorizing such construction or addition have been obtained. The construction or addition shall be in accordance with plans and specifications submitted with the application.

(a) Sketch Plan

Prior to application for a permit, a sketch plan drawn in accordance with the following may be submitted for review and recommendations of the Town Administrator or his/her designee.

i. The sketch plan shall be drawn at a scale of not less than (1) inch equals forty (40) feet
ii. Topography of the proposed site.
iii. Accurate boundary lines of the property.
iv. Proposed location of mobile home or RV spaces and stands.
v. Proposed and existing structures.
vi. Proposed contours in areas where major grading will occur.
vii. Location and rights-of-way of all proposed, dedicated or existing streets and roads on or within two hundred (200) feet of the proposed park.
viii. Watercourses.
ix. Septic tanks and drain fields (if applicable).
x. Location of wells (if applicable).

(b) Preliminary Plan

The preliminary plans shall be submitted to the Town Planning Board showing the following on one or more sheets. Unless otherwise required in this section, a scale of not less than one (1) inch equals forty (40) feet shall be used. In all cases, the proposed characteristics shall be shown in a manner that makes them easily distinguishable from the existing characteristics of the land:

i. A location map with a scale not less than one (1) inch equals one thousand (1,000) feet showing the location of the mobile home or RV park in relation to the surrounding area within a one (1) mile radius.
ii. The name of the mobile home or RV park, the name(s) and address(es) of the owner(s), the developer if applicable and

the registered surveyor, engineer or architect who designed the park.

iii. Date, scale, and approximate north arrow.

iv. The boundary line of the tract with accurate linear and angular dimensions drawn to scale and the areas of the park in square feet or acres.

v. Location of all mobile home or RV spaces and stands.

vi. A detailed drawing to a scale of not less than one (1) inch equals five (5) feet of a typical mobile home or RV space showing the location of the mobile home or RV stand and construction thereof, utilities and the mobile home or RV utility connections, patio, footing, walks, parking spaces, tie-down locations, drive -ways and all other improvements.

vii. Locations and uses of any proposed buildings and building lines.

viii. Proposed and existing contours with a vertical interval of five (5) feet or less and elevations of existing streets, roads, drives, walks, curbs, catch basins, etc.

ix. Name, location, and dimensions of all proposed roads. The location and dimensions of all alleys, driveways, entrances, exits and walkways.

x. When requested, profiles of all proposed public or private streets, roads, or drives, showing natural finished grades drawn to a scale of not less than one (1) inch equals four (4) feet vertical.

xi. General landscape plan showing the location, name, and size of all plant material to be used on the project and plans of landscape features such as screen, fences, etc. The location of all grassed areas should be shown.

xii. Location and dimensions of all recreation areas, open spaces, and parks.

xiii. Plan of proposed utility layouts (sewer lines, septic tanks, septic tank drain fields and water lines) showing connection to existing or proposed utility systems if feasible. Where public water and public sewer are not available, a written statement from the County Health Department shall be submitted with the mobile home or RV park plan indicating that the mobile home or RV park has adequate land area and suitable soil conditions and topography to accommodate the proposed methods of water supply and sewage disposal.

xiv. Location of all garbage receptacles.
xv. A detailed plan for all electrical installations prepared to meet the National Electrical Code and all local codes or ordinances.
xvi. Location of major identification signs.
xvii. The height above sea level and the flood zone of the tract of land shall be shown on the preliminary plan meeting the requirements of the applicable Flood Damage Prevention regulations in Chapter 5 of this ordinance
xviii. Signature and seal of person or firm responsible for the plan.

(c) Permits

i. Once the preliminary plan has been approved, the developer may obtain development permits for the construction of the park and any improvements.
ii. After final approval, the developer must obtain a mobile home or RV set-up permit, electrical permit, and a septic repair permit (if applicable) before placing or replacing homes
iii. In mobile home and RV parks, a permit is required for all accessory buildings.
iv. It shall be unlawful for any person to maintain or operate a park within the jurisdiction of this ordinance unless such person shall first obtain a permit.
v. The permit shall be issued and renewed after the Town Administrator has ascertained compliance with the applicable provisions of this section and all other town ordinances.
vi. No permit shall be issued for any park until the final plan has been approved by the Cedar Point Board of Commissioners. After the permit is issued, the park shall operate in accordance with this ordinance.
vii. All fees for permits shall be set by the Board of Commissioners.
viii. The Town Administrator or his designee, after due notice, may suspend or revoke the permit of any owner or operator of a recreation vehicle "RV" park for violating the provisions of this ordinance. Any decision of the Town Administrator or his designee may be appealed to the Cedar Point Board of Adjustment.

(d) Inspections During Construction

Periodic inspections of the construction shall be made by the Town Administrator or designee to determine compliance with the plans and specifications. The developer shall make available any records, test data, or other information central to such inspections.

(e) Final Plan

After preliminary plan approval and construction of all improvements shown on the preliminary plan, the developer shall prepare a final plan of the site. This plan shall show all improvements, facilities, amenities, information & mobile home or RV spaces shown on the preliminary plan and shall conform generally to the preliminary plan. Upon receipt of the completed final plan, the Town Administrator or his/her designee shall approve, or disapprove the plan within 10 days. Upon approval, the plan shall be signed and a copy provided to the developer. If the plan is not approved, the developer shall be given written notice and may appeal the decision to the Board of Commissioners within 30 days of notice. Substantial changes between the preliminary and final plans that have not been approved shall be grounds for referral to the Planning Board and Board of Commissioners for review and approval. Approval of the final plan will authorize the developer to place mobile homes or RV's in the park.

(f) Developing in Phases

If the development is to be completed in phases, the preliminary plan shall show the entire development with the phases delineated and the final plan should be submitted for only the phase that has been completed.

4. PROCEDURE FOR OBTAINING A CERTIFICATE OF OCCUPANCY FOR A MANUFACTURED HOME IN A MOBILE HOME PARK

(a) The applicant shall apply to the Town Administrator or his/her designee for a zoning permit and necessary building permits for the Mobile Home set-up. The applicant shall make the following information available to this agency:

i. Name of mobile home park
ii. Space number
iii. Size of mobile home
iv. Manufacturer and manufacturing date of mobile home.
v. A copy of the Carteret County Environmental Health Septic

System recheck

vi. Other information required by the reviewer

(b) The Town Administrator or his/her designee shall check for proper placement of the mobile home on the stand, proper anchorage, and proper electrical and plumbing connection.

5. DESIGN SPECIFICATIONS FOR MOBILE HOME PARKS

(a) Every new mobile home park shall be located on a tract of land not less than three (3) acres in size.

(b) Minimum Mobile Home Space Requirement Area:

i. 15,000 square feet-public water and public sewerage not provided.

ii. 10,000 square feet-public water or public sewerage provided.

iii. Width: 50 feet at location of stand

iv. Front yard setback at location of stand-7 Feet

v. Side yard setback at location of stand-7 Feet

vi. Rear yard setback at location of stand- 7 Feet

(c) No more than one (1) mobile home may be parked on any mobile home space.

(d) The surface of each mobile home stand shall consist of a minimum size of thirteen (13) feet by sixty (60) feet, placed on properly graded and compacted soil.

(e) All mobile home spaces fronting on a public or private road shall be located a minimum of fifteen (15) feet from the road right-of-way.

(f) A permit shall be required for all accessory buildings.

(g) Parking spaces sufficient to accommodate at least one (1) automobile shall be constructed within each mobile home space, and it shall be paved and/or covered with four (4) inches of compacted crushed stone.

(h) The mobile home spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the mobile home spaces or within the mobile home park.

(i) Each mobile home space shall be graded and graded areas grassed to prevent erosion and provide adequate storm drainage away from the mobile home.

(j) The slope of the surface of the mobile home stand shall not exceed three (3) percent.

(k) The roads and driveways of the mobile home park shall be paved. The roads must meet the standards set forth in the NC Department

of Transportation Subdivision Roads Minimum Construction Standards.

(l) Driveways shall be of adequate widths to accommodate the contemplated parking and traffic volume in accordance with the type of road.

(m) Entrance streets and other collector streets with guest parking on both sides shall have a thirty-six (36) feet minimum right-of-way with twenty (20) feet of paved roadway and shoulders graveled to a depth of four (4) inches (requirements for shoulders can be varied if adequate guest parking is provided through an alternate plan).

(n) Collector street with no parking or minor or cul-de-sac street with no parking shall have a twenty-four (24) feet minimum right-of-way with twenty (20) feet minimum paved roadway.

(o) One-way minor street with no parking (acceptable only if less than five hundred (500) feet total length and serving less than fifteen (15) mobile home stands) shall have a Sixteen (16) feet minimum right-of way with fourteen (14) feet minimum paved roadway.

(p) No mobile home space shall have direct vehicular access to a public street.

(q) No banks, except along drainage ditches, in the park shall have a slope steeper than three (3) feet to one (1) foot.

(r) Closed ends of dead-end drives or roads shall be provided with turning circle of at least one hundred (100) feet in diameter.

(s) Each mobile home space shall have adequate access for both mobile home and auto, with a minimum width of twenty (20) feet unless more is deemed necessary because of topographical conditions or street curvature.

(t) When the mobile home park has more than one direct access to a public street, these shall not be less than two hundred (200) feet apart or closer than three hundred (300) feet to a public street intersection unless topographical conditions or unusual site conditions demand otherwise.

(u) Permanent sign (s) shall be required for every mobile home park. The size of the signs shall be as follows: Not more than two (2) signs with a total maximum area of 48 square feet and a total minimum area of 12 square feet. Signs must be located on the park property within 50 feet of the entrance and at least 10 feet off the front property line. Signs must be located a minimum of five

(5) feet from any side property lines.

(v) Only indirect non-flashing lighting may be used for illumination, and the sign must be constructed in such a manner as to prevent a direct view of the light source from any public street right-of-way.

(w) All new mobile home parks shall have a screening strip of plant material adjacent to and within the park boundary extending along the entire perimeter of the park meeting the Buffer requirements of this ordinance. This requirement may be waived or varied by the Cedar Point Board of Commissioners along any boundary that is naturally screened by plant materials or topography. Screening strips shall not be located on any portion of any mobile home space, street, or private drive. Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.

(x) Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be completely burned or removed from the mobile home park.

(y) Clearing Drainage Ways: During the construction, preparation, arrangement and installation of mobile home park improvements and facilities in the mobile home park at or along a stream bed, the developer shall maintain each stream, creek or backwash channel and banks on the stream including the removal of all debris, logs, timber, junk and other accumulation of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course; installation of appropriately sized storm water drains, culverts or bridges shall not be construed as obstructions in the stream.

(z) Street Lights: A lighting system consisting of electric lamps with 200 foot spacing or as specified in Power Company standards shall be provided. Pole mounted lights shall be setback 5 feet from the edge of the roadway surface. Lighting intensity shall be based on the standards used by the Power Company for candlepower at ground level.

(aa) Refuse Collection: Park owners shall make arrangements for a private vendor or other source to collect refuse, either from individual spaces or from centrally located dumpster sites. All dumpster locations are to be fenced and screened from view. Individual refuse receptacles shall be waterproof and rodent proof.

(bb) Sewage Disposal: All parks are to be provided with a sewage collection system and/or septic tanks, approved by the appropriate health agency. If a centralized sewer system is to be used, it shall meet the requirements of the Carteret County Health Department or appropriate state agencies.

(cc) Water Supply: All parks shall obtain water from a public source or a source as approved by the local Board of Health or appropriate state health agency.

(dd) Utilities: Each space shall be equipped with water, sewer, and electrical connections.

(ee) Mobile Home Set Up and Anchorage: Each mobile home shall be set up and anchored in accordance with all applicable building codes.

(ff) Utilities- shall be installed underground.

(gg) Fire Protection – All lots, in their entirety, shall be no more than 500 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the lot,

6. DESIGN SPECIFICATIONS FOR RECREATION VEHICLE "RV" PARKS

(a) Every new recreation vehicle "RV" park shall be located on a tract of land not less than three (3) acres in size.

(b) Every space shall consist of a minimum area of two thousand (2,000) square feet. Each space shall be designated on the ground by permanent markers or monuments.

(c) No more than one (1) camping vehicle may be parked on any one space.

(d) All spaces fronting on a public or private road shall be located a minimum of fifteen (15) feet from the road right-of-way.

(e) Parking space sufficient to accommodate at least one (1) automobile and camping vehicle shall be constructed within each space and they shall be paved to meet minimum North Carolina State Highway Commission paving requirements or covered with four (4) inches of crushed stone.

(f) All spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the spaces or within the park.

(g) Each space shall be graded to obtain a reasonable flat site and provide adequate storm drainage away from the site.

(h) The roads and driveways of the recreation vehicle "RV" park shall be paved. The roads must meet the standards set forth in the NC Department of Transportation Subdivision Roads Minimum Construction Standards.

(i) No space shall have direct vehicular access to a public or private road.

(j) The park shall be developed with proper drainage ditches. All banks shall be sloped and seeded.

(k) Closed ends of dead-end drives or roads shall be provided with a turning circle at least eighty (80) feet in diameter.

(l) Each space shall have adequate access for a recreation vehicle "RV" and motor vehicle with a minimum access width of twenty (20) feet unless more is deemed necessary because of topographical conditions or road curves.

(m) Permanent Identification sign: Not more than one (1) sign with a total area of eighty (80) square feet shall be allowed. The clearance of the sign shall not be less than eight (8) feet from the grade of the right-of-way or finished grade beneath the sign, whichever is less. The height of the sign shall not exceed twenty (20) feet in height from the grade of the right-of- way or surface grade beneath the sign, whichever is less. The sign shall be located on park property, but no closer than ten (10) feet from any right-of-way or front property line. Only indirect non-flashing lighting may be used for illumination and the sign must be constructed in such a manner as to prevent a direct view of the light source from any public road right-of-way.

(n) The park shall have a buffer strip adjacent to the park boundary extending along the entire perimeter of the park. The planting strip shall not be a portion of any space, road, or private drive. The buffer strip shall consist of a planted strip of land at least five (5) feet in width composed of deciduous and /or 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 and five (5) feet or more in height after one growing season, which shall be planted and maintained in a healthy, growing condition by the property owner.

(o) Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be completely burned or removed from the park.

(p) Street Lights: A lighting system consisting of electric lamps with

200 foot spacing or as specified in Power Company standards shall be provided. Pole mounted lights shall be setback 5 feet from the edge of the roadway surface. Lighting intensity shall be based on the standards used by the Power Company for candlepower at ground level.

(q) Screen porches/rooms, decks, sunrooms and/or other enclosures: Screen porches/rooms, decks, sunrooms, and/or other enclosures not exceeding a total of 300 square feet shall be allowed within approved recreational vehicle parks.

7. SANITARY FACILITIES, WATER SUPPLY, SEWERAGE, GARBAGE COLLECTION AND UTILITIES

(a) Each park shall have a central structure or structures that will provide toilet facilities for all genders. This structure may also contain a retail sales counter, and/or coin operated machines for the park residents use only, provided they are completely enclosed within the building and there is no exterior advertising.

(b) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable regulations.

(c) In every park, all Installation shall comply with all regulations of Cedar Point, Carteret County, and the State of North Carolina.

(d) Required Sanitary Facilities:

i. Parks shall have service buildings with the following minimum facilities:

	Number	Person(s)
Toilets	1 per	35
Urinals	1 per	20
Sink	1 per	20
Showers	1 per	20

ii. All toilet, shower, lavatory, and laundry facilities shall be provided and maintained in a clean, sanitary condition and in good repair at all times. They shall be safely and adequately lighted. Facilities shall be easily accessible and conveniently located. All toilet, shower, lavatory, and laundry room facilities shall be acceptable to the Health Department and shall be in conformity with all Cedar Point and Carteret County Codes.

iii. All service buildings shall have windows or openings for the admission of light and shall be capable of adjustment for

purposes of ventilation. All such openings, including doors, shall be properly screened, unless other effective means are provided to control flies and insects.

(e) Water Supply

i. Requirements: A safe, adequate, and conveniently located water supply connections must be provided for each space in compliance with applicable regulations. No water supply shall be installed, altered, or used without the written permission of the Town Administrator or his designee and Health Department.

ii. Drinking fountains shall be of an approved type and in locations acceptable to the Health Department and Inspections Department. Faucets shall not be used as drinking fountains. Areas around faucets or drinking fountains shall be drained in a manner acceptable to the Town Administrator or his designee and Health Department.

(f) Sewage Disposal

i. Toilet facilities must be provided for each park in compliance with applicable regulations and be approved, adequate and conveniently located.

ii. Sewage Dumping Station: Each park shall provide a sewage dumping station approved by the Health Department.

iii. No method of sewage disposal shall be installed, altered, or used without the written permission of the Health Department. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets and water-using appliances not herein mentioned shall be piped into the park's sewage disposal system or systems.

(g) Garbage and Refuse Disposal

i. Storage, collection, and disposal shall be so managed as not to create health hazards, rodent harborage, insect breeding areas, accidents, fire hazards, or air pollution.

ii. Containers: All refuse shall be stored in conveniently located, leak-proof, rodent proof containers with tight fitting lids. Containers shall be provided in sufficient number and capacity for proper storage of all refuse.

iii. Storage racks or concrete platforms shall be provided on which

to store containers for refuse. Such container racks or platforms shall be so designed as to prevent tipping, to minimize spillage and container deterioration, and to facilitate cleaning.

(h) Insect and Rodent Control measures to safeguard the public health and comfort shall be used in the park as required by the Health Department.

(i) Electrical Service. Where electrical service is used, the installation and use of such facilities shall conform to all applicable codes.

(j) Utilities- shall be installed underground.

(k) Fire Protection – Per Appendix C of the North Carolina Fire Prevention Code (2012), all lots, in their entirety, shall be no more than 500 feet from a fire hydrant on a fire apparatus access road, as measured by an approved route around the lot,

(l)

8. RECREATION AND OPEN SPACE

(a) Every person or corporation that develops a mobile home or recreation vehicle park under the requirements contained in this ordinance shall also be required to dedicate a portion of such land; to provide cash-in-lieu-of-land payment; or to provide a combination of land, cash and facility development acceptable to the Town for the purposes of developing a park, recreation and open space sites to serve the residents of the neighborhood in which the park is located or in the immediate area of the park. Developments that develop and maintain their own recreational areas are exempt.

(c) The amount of land required to be dedicated by a mobile home or recreation vehicle "RV" park developer shall be equal to or exceeding 10% of the total land proposed to be developed. Fees In Lieu of Dedication: A developer may provide funds In the amount of 10% of the market value of the property that is being developed. The Town may use these funds to purchase recreational land or areas to serve the development and the surrounding area if so approved by the Town Board of Commissioners.

(d) The Board of Commissioners may, in case of an unusual or exceptional nature, allow adjustments in the dedication requirements established in this ordinance. An unusual or exceptional nature may include but not be limited to land within

the development set aside for private recreation or proposed expenditures for recreational facilities or equipment.

(e) Expenditures of recreation funds shall be determined by the Town Board of Commissioners.

(f) If the land required for donation in a section of a park exceeds the requirement in Section 8 (b), the difference can be applied to future sections.

(g) If the overall master plan of the development shows future recreation areas not included in the section receiving final plat approval, the donation of recreational land (or fees) shall not be required. However, if the amount of recreational land required by this ordinance is not developed within one (1) year of final plan approval, Section 5.5(A)(8) shall immediately apply.

(h) The Cedar Point Board of Commissioners may distribute the funds collected from the cash in-lieu-of land payments for either Town recreational projects or recreational facilities or programs co-sponsored, owned, or operated by Carteret County or other public agencies.

9. REGISTRATION OF OCCUPANTS AND OWNERS IN MOBILE HOME AND RECREATION VEHICLE PARKS

The operator of mobile home or recreation vehicle parks shall keep an accurate register containing a record of all occupants and owners of all mobile homes or recreation vehicles in the park. The operator shall keep the current register and all entries for the previous three (3) years available for inspection at all times by authorized Town Administrator or designee. The register shall contain the following information:

(a) Name and permanent address of owner.

(b) Space number in which each mobile home is parked.

(c) Date of entering the park

(d) Date of leaving the park.

The mobile home or recreation vehicle park operator shall immediately notify the Town Administrator or designee when a mobile home or recreation vehicle is registered and space is rented or leased.

10. STRUCTURAL ADDITIONS

No living compartment other than a prefabricated structure specifically designed by the manufacturer for mobile home or recreation vehicle extension shall be added to any mobile home or recreation vehicle parked in a mobile home or recreation vehicle park which Is located within the

jurisdiction of this ordinance.

The Board of Adjustment may grant a special use permit to allow the addition of a living compartment other than that designed by a mobile home or recreation vehicle manufacturer provided that plans for the addition are submitted to the Board for approval and provided that such plans meet the requirements of this ordinance and applicable building code.

11. SALES IN MOBILE HOME PARKS

(a) It shall be unlawful to sell on a commercial basis mobile homes or trailers within mobile home parks.

(b) It shall be unlawful to sell a mobile home space(s).

5.6 INDUSTRIAL BASE ZONING DISTRICTS

A. LIW LIGHT INDUSTRIAL AND WHOLESALE DISTRICT

1. INTENT

This district encompasses those lands that are primarily suited for the location of manufacturing and other related uses that would be incompatible with business and residential areas.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) Minimum lot area necessary of one (1) acre is required for all uses.

(b) Minimum lot width shall be one hundred (100) feet.

(c) Minimum depth of the front yard shall be forty (40) feet

(d) Minimum depth of the side yard shall be twenty (20) feet. In case of a corner lot or a lot that is adjacent to a residential zone or use, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way or residential zone or use shall be no less than thirty (30) feet.

(e) Minimum depth of the rear yard shall be twenty-five (25) feet

(f) Maximum height of structures shall be forty-five (45) feet

(g) A TIA shall be required for Industrial developments proposed within Town of Cedar Point with an estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

B. I-W INDUSTRIAL AND WHOLESALE DISTRICT

1. INTENT

A district planned and established for the location of manufacturing and other related uses that would be incompatible with business and residential areas.

2. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) Minimum lot area necessary of one (1) acre is required for all uses.
(b) Minimum lot width shall be one hundred (100) feet.
(c) Minimum depth of the front yard shall be fifty (50) feet.
(d) Minimum depth of the side yard shall be twenty (20) feet. In case of a corner lot or a lot that is adjacent to a residential zone or use, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way or residential zone or use shall be no less than thirty (30) feet.
(e) Minimum depth of the rear yard shall be thirty (30) feet.
(f) Minimum height of structures shall be forty-five (45) feet.
(g) A TIA shall be required for Industrial developments proposed within Town of Cedar Point with an estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

5.7 HUMAN SERVICES CAMPUS BASE ZONING DISTRICTS

A. HSCD HUMAN SERVICES CAMPUS DISTRICT

1. INTENT

The Human Services Campus District (HSCD) is established to encourage the permanent development of land uses focused on providing recreational and educational services and opportunities to members and guests of the owner of the property developed under this section, and also to provide living accommodations for individuals who may need an increased level of specialized care or attention such as assisted and independent living facilities for the elderly and disabled, as well as recreational amenities for children and the elderly. To qualify for HSCD zoning designation all property shall be in single ownership and the owner will also be responsible for the maintenance and perpetual care of the property. No portion of the required land area can be subdivided into separate ownership for development by an outside developer.

2. USER FEES AND MUNICIPAL SERVICE FEES

All entities, including non-profits, residing in the Human Services Campus District are subject to a Municipal Service Fee to be determined by the Town. The fee's amount shall be calculated by building square footage and usage of public safety services, garbage, water, and sewer.

3. DIMENSIONAL REQUIREMENTS

Unless otherwise specified, the following dimensional requirements shall apply:

(a) Minimum District Area: Sixty (60) acres
(b) Minimum District Width: None
(c) Minimum Front Setback: Twenty (20) feet
(d) Minimum Side Yard Setback: Ten (10) feet
(e) Minimum Rear Yard Setback: Twenty (20) feet
(f) Maximum Allowable Height: Forty-five (45) feet
(g) Minimum Required Open Space: Thirty-five (35) percent of total district area
(h) Maximum Impervious Surface Area: Sixty-five (65) percent of total district area
(i) Minimum Single Family, Duplex, and Triplex Space Requirements: Each parcel designated for either single family, duplex, or triplex use shall adhere to the following dimensional and setback requirements from each identified parcel line:
    i. Area:
    Single Family: Twenty thousand (20,000) square feet.
    Duplex: Thirty thousand (30,000) square feet.

Triplex: Forty Thousand (40,000) square feet.

ii. Setbacks: These setbacks shall be observed from the individual single family, duplex, or triplex lots designated for the use.
Minimum Front Yard Setback: Twenty (20) feet.
Minimum Side Yard Setback: Ten (10) feet.
Minimum Rear Yard Setback: Twenty (20) feet.
Minimum Parcel Width: Eighty (80) feet.

(j) Minimum Space Requirements for other developments: All other developments within the district shall observe the following area and setback requirements from identified parcel lines:
Minimum Parcel Area: Fifty thousand (50,000) square feet.
Minimum Front Yard Setback: Thirty (30) feet.
Minimum Side Yard Setback: Ten (10) feet.
Minimum Rear Yard Setback: Thirty (30) feet.
Minimum Parcel Width: One hundred (100) feet.

(k) A TIA shall be required for residential developments proposed within Town of Cedar Point that have an estimated trip generation of 2,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

5.8 MIXED - USE BASE ZONING DISTRICTS

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A. MXD Mixed Use District

1. PURPOSE

For the purposes of this ordinance is MXD to provide innovative opportunities for integrating diverse but compatible uses into a single development that is unified by distinguishable design elements MXD characterized by connected, coordinated commercial development with a mix of residential development to provide residents in the development, as well as members of the public, convenient places to work and shop with amenities and walkways to increase pedestrian activity, decrease reliance on individual vehicles, foster transit usage, enhance the environmental quality and attractiveness of Cedar Point, improve the overall quality of life, and provide for the welfare of the citizens. As used in the section "MXD" shall mean the Mixed Use District established in this section.

2. APPLICABILITY

(a) **Applicability:** Mixed Use District regulations shall apply to all improvements on lots and open uses of land constructed, or reconstructed, or developed for the purpose of a mixed use development.

(b) There are two separate aspects of developing a property under this Section. The first is placement of specified property in the MXD zone. This is accomplished through the procedures for a zoning map change for the property. The second is approval of a specific mixed use project under the provisions of this Section. Where practical, the Town may allow an applicant to combine a re-zoning of property to the MXD with an application for approval of an MXD project. If an applicant proceeds on this basis, and if it becomes apparent that the Town will not approve the project as presented, the applicant will be permitted to withdraw the re-zoning application without prejudice to the right to re-file in the future.

3. MIXTURE OF USES

(a) Uses may be mixed within a building or within the development.

(b) Mixed use developments shall dedicate and feature a minimum of twenty-five (25) percent of the total acreage as residential use.

(c) Except on zoning parcels of less than five acres, the mixed use development must always contain a residential use, along with at least two (2) of the following use categories:

i. Office.

ii. Commercial.

iii. Institutional, quasi-public, public.

iv. Entertainment and lodging.

(d) For mixed-use developments containing residential plus two (2) use categories, the residential use shall occupy a minimum of twenty-five (25) percent. Each other use shall occupy a minimum of twenty (20)

percent of the total acreage of the project. For mixed-use developments containing residential plus three (3) or more use categories, the twenty (20) percent minimum is waived for all categories; however, residential use shall remain a minimum of twenty-five (25) percent. No use may occupy more than fifty (50) percent, and no two (2) uses combined shall occupy more than sixty (60) percent of the floor area of buildings or gross acreage.

For phased projects, during construction of any phase prior to project completion or six (6) years from the initial foundation inspection, whichever is first, no single use shall exceed sixty (60) percent, and no two (2) uses shall exceed ninety (90) percent. Residential uses may occupy as much as seventy-five (75) percent of the gross acreage, if that which is over sixty (60) percent is located in a mixed-use building and located over first floor non-residential use.

(e) For MXD projects developed in phases (as defined in this section), each phase shall be able to function as a standalone development and the project shall contain the required common space/open space at all times during the phases of construction. All MXD projects shall meet the minimum mix of uses requirements according to the following schedule:

Project Size (acres zoned MXD)	Time from first foundation inspection
0—1	12 months
1 to 10	24 months
10+	36 months

If the mix of uses is not provided in this time, no certificates of compliance or occupancy will be issued for any part of the project other than single-family detached residential developments and townhouse residential developments, not exceeding four (4) units per building until the mix is provided. All structures with a certificate of

compliance or occupancy or for which foundations and footings have been installed may be considered part of the mix. Single-family detached residential developments and townhouse residential developments not exceeding four (4) units per building may have up to four (4) years from the first foundation inspection approval before certificates of occupancy will be withheld for failure to provide the required mix of uses. The Board of Commissioners may grant a one-year extension for a total of five (5) years if the property owner can provide evidence that a mix will be provided by the end of the additional year. The evidence may include but is not limited to tenant contracts, leases or other legal construction agreements with specific deadlines.

Notwithstanding the foregoing provisions regarding phased projects, in the event that the developer has provided either the Town or the North Carolina Department of Transportation, whichever is applicable, with financial guarantees in a form suitable to the relevant entity to cover all off-site improvements related to uses other than residential and twenty (20) percent of the project's common space/open space has been fully constructed and is accessible, then the developer's failure to provide the nonresidential component for phased projects, within the applicable time periods set forth in the schedules above shall not preclude the issuance of certificates of compliance or occupancy for the residential portions of the project, provided all other conditions for obtaining the certificates have been met.

(f) For zoning parcels of less than five acres, the mixed use development must contain residential uses, but may contain only one other non-residential use category. Other than this provision e, all other provisions of this Section apply to zoning parcels of less than five acres zoned MXD.

4. **PERMITTED USES**

(a) PRINCIPAL USES. All uses in this list shall be considered permitted uses in a MXD. The uses are arranged in categories to provide an appropriate mix of uses. Uses are placed in categories based on similar impacts and to ensure diversity of uses. The categories are not intended to follow standard classification of uses. The list of uses for the MXD is independent from the permitted uses for other zoning

districts. At least residential along with two (2) other categories out of the five (5) listed below must be represented in the mixed-use project.

i. *Residential category:*

   a. Dwellings, single-family.
   b. Duplex, triplex, quad.
   c. Family care homes.
   d. Group home supportive, medium, under prescribed conditions.
   e. Group home supportive, large, under prescribed conditions.
   f. Multifamily and townhouses.

ii. *Office category:*

   a. Banking services.
   b. Offices, medical.
   c. Offices (without outdoor operations or storage).
   d. Offices with limited wholesale distribution (no assembly and storage permitted).
   e. Radio and television broadcasting studios.

iii. *Commercial category:*

   a. Convenience food stores without gasoline sales.
   b. Lawn and garden stores.
   c. Spas and health clubs.
   d. Personal service establishments:
      (1) Beauty salons.
      (2) Barber shops.
      (3) Licensed professional therapists.
      (4) Clothing alterations.
      (5) Shoe repair shops.
   e. Photography studios.
   f. Restaurants without drive-up windows

g. Retail sales establishments that are not otherwise regulated. Farmer's markets.

h. Artisan food and beverage producers.

iv. *Institutional, quasi-public use, or public use category:*

a. Clubs, lodges and indoor recreation facilities for use by nonprofit organizations.

b. Colleges and universities.

c. Nursing homes.

d. Day care, adult or child.

e. Government facilities, not to include correctional facilities.

f. Hospitals.

g. Religious institutions.

h. Retirement centers and life care communities.

i. Schools, primary or secondary.

j. Assisted living residence.

v. *Entertainment and lodging category:*

(a)Art galleries and studios.

(b) Cultural arts centers including theaters.

(c) Movie theaters except drive-in.

(d) Museums.

(b) SUPPORTING USES. The uses listed below are considered supporting uses to the required categories. While the following uses are allowed by right, they shall not count towards the minimum required mixed-use categories. Even though the project may contain one (1) or more of the following uses, it must still include at least three (3) of the five (5) categories (residential, office, commercial, institutional/quasi-public/public, or entertainment and lodging) listed above to qualify as a mixed-use project.

i. Residential Storage Buildings.

ii. Neighborhood Parks consisting only of grassy areas, walkways, landscaping features, and children's playground equipment.

(c) **Special Uses.** The following uses are permitted subject to the requirements of this district and additional regulations and requirements imposed by the board of commissioners. All special ~~conditional~~ uses will be considered and approved according to the standards and provisions of Section 3.10 SPECIAL USE PERMIT.

(a) Veterinary services with enclosed pens.

(b) Convenience food stores with gasoline sales.

(c) Nightclubs (nightclubs shall not locate adjacent to an existing place of worship or within one thousand five hundred (1,500) feet of existing residential uses or districts).

(d) Laundry, dry cleaning, and laundromat services.

(e) Marinas.

(f) Recreation facilities (both indoor and outdoor), private or public (excluding parks consisting only of grassy areas, walkways, landscaping features, and children's playground equipment).

(g) Repair shops (without outdoor operations or storage).

(h) Automobile service shops (without outside storage or operations).

(i) Corporate Park uses limited to educational, scientific, and industrial research facilities, research laboratories and medical or dental laboratories.

(j) Breweries, microbreweries.

(k) Amphitheater.

(l) Hotels and motels, including Restaurants and or bars/nightclubs that are located within the structure.

(m) Meeting and events centers.

(n) Accessory apartment, detached.

(o) Caretakers' dwellings.

(p) Commercial parking facilities.

(q) Public parks, playgrounds, and facilities.

(r) Public and private transportation facilities.

(s) Public utility facilities, with or without outside storage.

(t) Home occupations.

(u) Restaurants with drive through windows.

(d) *Adult Establishments Prohibited*. All adult establishments are specifically prohibited in the MXD.

5. GENERAL REGULATIONS.

(a) **MINIMUM SITE SIZE:** No MXD zoned parcel shall be less than 15,000 square feet. There is no minimum lot size within an MXD development project.

(b) **BUILDING HEIGHT*:*** No buildings shall exceed forty-five (45) feet in height. Buildings with heights of thirty-five (35) feet or higher must be located in the middle third of the site between the side boundaries of the site but may be permitted on site perimeters if the adjacent property has a building greater than thirty-five (35) feet in height.

(c) **THOROUGHFARE REQUIREMENTS:** All mixed-use developments shall have at least one (1) direct access to and from an existing major or minor thoroughfare. Interconnection to other road classifications may be required. The Board of Commissioners may approve mixed-use developments without direct access to a thoroughfare if a traffic impact analysis, performed and approved according to the Appendix A of this Ordinance, demonstrates:

i. The impact of the project will not cause surrounding roadways to operate above capacity. The Board of Commissioners shall consider the impact of undeveloped land in the area when approving mixed-use developments without access to thoroughfares;

OR

ii. The impact of the project will be less than or equal to the impact of a typical project developed under existing zoning. The typical project shall be determined by reviewing at least three (3) recent comparable projects developed within five (5) years of the project in the same zoning designation and shall not be a best case or worst-case scenario. The list of comparable projects must be approved by the Town Administrator.

(d) **BORDER USE AREAS:** To insure compatibility with adjoining land uses a border use area twenty-five (25) feet in width shall be established along the exterior property lines of the MXD where the exterior property lines of the MXD are adjacent to residential uses or

lots within a residential zoning district. A vegetative buffer, at least fifteen (15) wide shall separate the residential uses or platted single-family residential lots from the border use area.

i. If the exterior property line of the MXD is not adjacent to residential uses or platted residential lots, then no border use area will be required.

ii. If a border use area is required, only residential uses or open space shall be permitted within that border area.

iii. The maximum building height within any portion of the border use area shall be forty (40) feet.

iv. The required building setback in the border use area shall be twenty-five (25) feet.

v. There shall be no non-residential accessory structures or parking located within the border use area.

vi. In all instances, lighting shall be directed away from the adjacent residential use.

(e) **BUILDING SETBACKS AND SEPARATIONS:** Buildings located on the periphery of the MXD shall be set back a minimum of twenty (20) feet from the MXD boundary. All buildings in projects larger than five (5) acres shall be set back at least fifty (50) feet from U.S. and North Carolina numbered highways and major thoroughfares. All buildings in projects five (5) acres or less shall be set back at least twenty-five (25) feet from U.S. and North Carolina numbered highways and major thoroughfares. There shall be no minimum interior setbacks and separation requirements. All internal nonresidential buildings are encouraged to be located within ten (10) feet of street rights-of-way to enhance the pedestrian orientation of the development. Buildings set back large distances from roads and pedestrian trails are strongly discouraged. However, all structures shall meet state building code requirements and all other requirements to protect the health, safety, and welfare of occupants.

(f) **UNIFIED CONTROL/OWNERSHIP OF THE SITE:** Mixed-used developments shall be under single ownership or unified control or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this ordinance. The entire MXD site, including all phases and subdivided lots, shall be

fully integrated through common design themes and pedestrian and vehicular connections. A unified mixed-use development is required regardless of whether the development is phased or subdivided.

(g) **COMMUNITY PROPERTY OWNER'S ASSOCIATION:** A community property owner's association shall be established for the MXD development and vested with the duty and authority to enforce any restrictions imposed by the Town in approving the MXD development.

(h) **UTILITIES:** All electric, cable television and telephone facilities, fire alarm conduits, street lighting wiring, and other wiring conduits and similar facilities shall be placed underground by the developer or the appropriate utility company. If the developer uses a "package plant" for wastewater collection and treatment, that facility shall not be within one hundred (100) feet of any residential use or zoning district or any US or NC Highway and shall be screened so that it is not visible.

(i) **MINIMUM LANDSCAPING:** Landscaping and Buffering shall be in accordance with Sections 7.3 and 7.4 of this ordinance with the following conditions:

i. Unless otherwise noted, all trees planted as a function of fulfilling the requirements of this Article shall be a minimum of two (2) to two and one-half (2½) inch caliper for shade canopy trees, eight (8) to ten (10) feet in height for understory and multi-trunk trees, and shrubs shall be a minimum of twelve (12) inches in height.

ii. Credit towards landscaping requirements may be granted by the Town Administrator for healthy trees of at least two (2) inch caliper preserved or transplanted by spading from within the limits of disturbance or within the improved area of the project boundaries.

iii. Credit towards the streetyard or parking lot requirements may be granted by the Town Administrator provided an overall landscaped effect is maintained and the parking facility shading requirements are achieved.

iv. Up to fifteen (15) percent of the area to be landscaped may be covered with surfaces specifically intended to afford intensive use and enjoyment by employees, residents or the public (such as walking paths, bench and table pads, etc.).

v. Stormwater management systems shall be integrated into the landscaping plan by employing rain gardens, bioretention units, constructed wetlands, and infiltration areas, as combined landscaping/stormwater management features to the extent that soil permeability, depth to groundwater, or site encumbrances, such as utilities, allow.

vi. All trees and shrubs shall be adapted locally to the area. Native species and related cultivars are encouraged.

vii. Xeriscaping and use of drought tolerant landscape plantings is encouraged.

viii. Plantings shall be installed in a manner that is in visual harmony with existing and surrounding vegetation and topography, and ensures the availability of sufficient soil and water for healthy growth.

ix. Stormwater runoff shall be directed to landscape islands and planting areas to reduce irrigation needs and to take advantage of water quality and water recharge benefits to the extent that soil permeability, depth to groundwater, or site encumbrances, such as utilities, allow.

x. Street trees are required along all streets and shall be a minimum three-inch caliper and shall be located at a minimum fifty (50) feet on center. Mixed-use developments shall provide at least the minimum square feet of landscaped area and number of trees required by this section.

xi. *Additional landscaping in key areas.* Provision of at least ten (10) percent greater amount (square feet) than minimum landscaping area on the project perimeter, at project entrances and in common spaces may be substituted for strict conformance to internal landscaping requirements.

(j) **SIGNS:** The following sign requirements shall apply to mixed-use developments:

i. All internal signs in areas developed mixed-use shall be required to meet the requirements for signs in Section 7.18 of this ordinance.

ii. Project entry signs shall be integrated into site entry features and meet the following standards:

a. The sign area shall not exceed seventy-five (75) square feet and its vertical dimension shall not exceed four (4) feet.

b. The maximum height of the overall entry structure shall not exceed six (6) feet.

c. The sign and any structures shall be so located as to not obstruct the view of persons entering or leaving the development consistent with the sight triangle requirements.

d. The main and secondary entrances shall be designated on the site plan. Two (2) signs are allowed at the main entryway, one (1) on each side of the road or driveway with a combined total area not to exceed one hundred fifty (150) square feet and with a maximum vertical dimension of four (4) feet. Secondary entranceways shall be restricted to one (1) ground sign, not to exceed eighteen (18) square feet in area and with a vertical dimension of four (4) feet. However, if secondary entry signs are incorporated with an entry wall or similar type feature, two (2) signs are allowed, one (1) on each side of the access road, not to exceed a combined total area of twenty-seven (27) square feet and a vertical dimension of four (4) feet.

iii. Pole signs and outdoor advertising signs shall not be permitted in mixed-use developments.

iv. Wayfinding signs are permitted within mixed-use developments. A wayfinding sign is a sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians on the site.

a. The materials used for directional signs or wayfinding signs shall coordinate with the overall character and design of the mixed-use development.

b. The maximum height of each sign pole or post is twelve (12) feet.

c. The minimum clearance beneath wayfinding signs shall be seven (7) feet if the sign is located within a pedestrian area or bike path area. There is no minimum clearance if the sign is not located in a pedestrian area or bike path area.

d. The maximum square footage per individual sign on the sign pole or post is four (4) square feet. The maximum total square footage on a pole or post is twenty (20) square feet.

e. The maximum number of individual signs per sign pole or post is five (5).

f. No more than two (2) sign poles or posts per block face are permitted.

g. External illumination of wayfinding signs is permitted. Internal illumination of wayfinding signs shall be prohibited.

h. Wayfinding signs shall not be visible from roadways outside the development.

i. A sign plan must be approved by the Town Administrator prior to installation. The sign plan must include all proposed sign dimensions, square footage, location, materials, and colors.

(k) **STREET AND PARKING DESIGN:**

i. A general grid street system with multiple external road connections is encouraged. Multiple internal road connections are required.

ii. Road connections to adjacent roads and developments:

a. Connections to existing stubbed roads are required unless the connection would result in substantial degradation of an existing wetland or water body to the point that required permits cannot be obtained from the appropriate regulating bodies.

b. Multiple connections are encouraged to limit the impact on any one (1) street.

c. Each MXD project shall have sufficient external connections so that no one (1) site entrance will carry more than fifty (50) percent of the average daily trips to or from the site. This requirement may be waived if a site has insufficient frontage to be granted multiple driveway permits from the North Carolina Department of Transportation or the Town and adjacent site conditions prevent connections on other perimeters.

d. A traffic impact analysis and street design plan shall be required to make the determination of adequate connectivity. The traffic impact analysis is required at the time of site plan submittal and shall be composed in accordance with Appendix A of this Zoning Ordinance. The interconnectivity requirements of this section shall be met for each phase of a mixed-use development.

e. Connections to existing local roads shall not be direct through street access from collectors or arterials. Connections to local roads shall include landscaped islands, roundabouts or other features designed to calm traffic as it enters the existing neighborhood.

f. Public amenities are encouraged to be located next to adjacent neighborhood connection points.

iii. Pedestrian scale, tree lined streets with on street parking are encouraged.

iv. Parking lots shall be located behind or to the side of buildings. Clearly defined rear building entrances are encouraged where parking is located behind buildings. The majority of parking is encouraged to be on street parking to reduce large parking lots.

v. Parking garages are discouraged on primary activity or collector streets. If a parking garage is located on a primary activity or collector street, the majority of the facade shall have a nonparking use.

vi. Alleys are encouraged.

vii. The maximum block perimeter in areas designated Mixed Use, shall be no more than one thousand eight hundred (1,800) feet. Alternatives to this standard may be considered through the mixed-use development process, provided that pedestrian access is maintained at least every four hundred fifty (450) feet. Access may be provided through buildings or service alleys.

viii. Mixed-use developments may be required to provide street or driveway stubs and reciprocal access easements to promote efficient circulation between uses and properties, and promote connectivity and dispersal of traffic.

ix. The Town may permit alternatives to the Town's Standards for Street and Parking Design under any one (1) of the following conditions:

a. Safe and adequate access to and within the site is provided. All interior drives shall be designed so as to provide adequate access for emergency service vehicles, mass transit and solid waste pick up.

b. Low impact development as described in the density bonus section is provided.

c. Greater than fifty (50) percent of the total parking is on-street parking.

d. Angled parking may be permitted on streets with speed limits of twenty (20) miles per hour or less.

(l) **PARKING REQUIREMENTS:** The following parking requirements shall apply to mixed-use developments:

i. It is encouraged that a development use a parking garage for parking so to reduce the footprint of impervious surface within a project.

ii. Maximum parking requirements shall be consistent with the parking requirements of Section 7.15 of this ordinance.

iii. A maximum twenty-five (25) percent of parking may be for small vehicles/compact cars subject to the standards of Section 7.15 of this ordinance.

(m) **GENERAL SITE DESIGN:** The following characteristics are essential for a quality mixed-use development. Each of these components shall be included in mixed-use developments. Each component in this section includes both required and optional site design elements and is intended to allow for flexibility. The site plan shall include a narrative describing how the project will incorporate these characteristics. All mixed-use developments shall contain a minimum fifty (50) percent of the elements of this section.

i. Pedestrian accessibility/concentration of development (critical mass) in a compact, walkable area.

a. Uses are encouraged to be sufficiently concentrated to promote convenient pedestrian access. Larger projects are encouraged to concentrate uses in multiple nodes. Concentration within a one thousand five hundred (1,500) foot perimeter is preferred.

b. Pedestrian circulation shall be clearly defined and shall connect all uses.

c. Bicycle and pedestrian access to adjacent developments is strongly encouraged in areas where vehicular access is not provided.

d. Sidewalks are required on each side of rights-of-way or private streets throughout the development and are encouraged to be

located in front of businesses and houses and not concentrated in parking areas.

e. Strip commercial development characterized by single story uncoordinated, unconnected buildings with large street frontage parking lots is specifically prohibited. Strip malls with uncoordinated, unconnected out parcels are prohibited. All structures shall be fully integrated into the mixed-use project through common design themes (including, but not limited to, lighting, benches, landscaping, other decorative features but not necessarily building design), integration with a variety of uses, nonlinear arrangement, common spaces, pedestrian walkways, vehicular access connections and other features.

ii. *Clearly defined common spaces for gathering/interaction and fostering a sense of community.* Plazas, courtyards and other areas are necessary to provide for public gathering and interaction. Amenities, such as benches, planters, lighting, fountains, art, and landscaping that further the design theme of the project and encourage interaction are required. Specific requirements are described in the common space and open space section of this article.

iii. *Integrated design of the project.* Common architectural theme: Mixed-use projects require special attention to building design because of the intermixing of land uses in close proximity. Functional integration of residential and non-residential uses shall be considered during design of mixed-use projects. The following standards are intended to guide development of mixed-use projects:

a. *Physical integration of uses*: All mixed-use developments shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development.

b. Residential and non-residential uses may be located within the same or adjoining structures providing appropriate health and safety regulations are followed.

c. *Design:* Structures should provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Structures shall have consistent scale and

massing to create a unified project. Compatibility with the immediate context is required. However, gradual transitions in scale and massing are permitted.

(1) Blank walls shall be avoided by including ground floor windows, recesses, extensions and breaks in roof elevation.

(2) Design should provide differentiation between ground level spaces and upper stories. For example, bays or balconies for upper levels, and awnings, canopies or other similar treatments for lower levels can provide differentiation. Variation in building materials, trim, paint, ornamentation, windows, or other features such as public art, may also be used.

(3) Design shall ensure privacy in residential developments through effective window placement, soundproofing, landscape screening, or orientation of outdoor living areas (e.g., balconies, porches, patios and etc.). Opposite facing windows at close distances should be offset vertically or horizontally, or employ appropriate materials (e.g., glazed, tinted and etc.) to protect privacy.

d. *Housing diversity (size, type, and cost).*

(1) Mixed-use projects should include attached and detached residential components with a range of prices and sizes.

(2) Single-family lot sizes shall be varied to provide a mixture of lot sizes.

e. *Preservation of natural features and open space*. Permitted flexibility in lot sizes, setbacks, street widths, and landscaping shall be utilized to preserve natural features and provide open space consistent with the policies of the comprehensive plan. Specific requirements are described in the common space and open space section of this section.

f. *Connection to the surrounding community*. Mixed-use developments shall not be gated and shall be interconnected to surrounding, unrestricted, developments when possible. Mixed-use projects shall be designed as an integral part of the surrounding community and not as an isolated development.

g. *Phasing.* Mixed-use projects may be phased. Site plan submittals meeting all requirements of this section shall be

considered a phase. The first phase shall meet all requirements of this section. Additional phases shall become part of the existing development. The entire project, including the first phase and all subsequent phases, shall meet all ordinance requirements as a unified development at all times. The Town may require all external street interconnections, stormwater systems, utilities and other public improvements to be constructed in the first phase to ensure the phase can function as a standalone mixed-use development.

DENSITY.

(n) RESIDENTIAL DENSITY.

i. The base density permitted for areas designated residential in the Mixed Use District shall be three (3) dwelling units per acre.

ii. Maximum residential density for areas within an MXD site shall be determined by adding base density to density bonuses but shall not exceed eight (8) units per acre. Density bonuses shall be determined by application of performance measures described in this section. In order to be eligible for any bonus, the applicant shall utilize at least one category set forth below. Even though the total of density bonuses for categories would exceed eight units per acre, the maximum residential density is eight units per acre.

(o) DENSITY CALCULATIONS. Density shall be calculated using residential land use categories.

i. Mixed-use density shall be calculated using only the total acreage (including streets, parking, common space/open space, and other features in the residential area) on an MXD site.

ii. If the applicant designates areas classified Resource Protection or Conservation as not to be developed, the density calculation for the more intense land classification category may be applied to the entire residential area.

iii. Land preserved for the purpose described in subsection ii, above, shall only be eligible for full credit towards the minimum open space requirement if it is an integral part of the development. If the entire preserved area is located on the periphery of the development, the area shall only be credited for a maximum fifty (50) percent of the required open space. The purpose of this limit is

to ensure open space is not isolated but is an integral part of the development.

(p) **DENSITY BONUSES.** In reviewing a preliminary and development plan for a mixed-use development, the Town Administrator shall determine if the applicant meets the requirements for receiving bonuses and will certify his findings to the Town Board. Density bonuses are grouped into seven (7):

i. Environmental
ii. Community Design Standards
iii. Transportation Enhancements
iv. Mixed Use Buildings
v. Pedestrian Facilities
vi. Public Water Access
vii. Public Parks

Greater bonuses are awarded for items with more significant benefits to the community. The increases in density shall be subject to the following procedures:

i. *Environmental - (three (3) Dwelling Units per Acre)*: Use of the following low impact development approach in site design to mimic the predevelopment site hydrology for the ten-year storm. This approach has several steps that shall be integrated into the site design process. These steps are:

(1) *Define site constraints*. Locate wetlands, floodplains, stream buffers, significant trees, well-drained soils, etc.; define the development envelope; minimize disturbance; plan for lengthening of flow paths and disconnecting impervious surfaces.

(2) *Hydrologic analysis for pre and post development conditions*. Use hydrologic modeling to analyze the site; evaluate time of concentration benefits from planning techniques (from step 1); evaluate integrated management practices and supplemental needs.

(3) *Develop the storm water management plan*. Using bioretention areas, infiltration, filter strips, vegetated swales, rain barrels, etc., evaluate the site for appropriate

locations and measures through an iterative process; design supplemental controls as needed for meeting predevelopment runoff volume.

(4) *Long term maintenance*. Provide for long-term maintenance of techniques and ensure the continuation thereof.

b. *Community design standards - (one (1) Dwelling Unit per Acre)*: The applicant shall develop architectural design standards for the entire development consistent with the general site design requirements in this ordinance. The standards shall be maintained and enforced by the community property owners' association, be filed with the Town and any changes must be approved by the Board of Commissioners. If design review is at the sole discretion of the developer, the community property owners' association shall be permitted to comment on development. Development review shall be required to determine consistency with established standards for the life of the project.

c. *Transportation enhancements - (one (1) Dwelling Unit per Acre).*

Provision of private transit service. Service shall be provided to connect to the Carteret County Area Transportation System and local beaches, at a minimum. Service to major employment centers and shopping centers is encouraged. A minimum two-year contract is required from project completion.

d. *Mixed-use buildings.*

(1) *Bonus item - (one (1) Dwelling Unit per Acre):*

(2) Inclusion of at least one (1) building that is designated for nonresidential use on at least the first floor and with at least one (1) floor of residential units above. Residential square feet shall be greater than the non-residential square feet in the building *Bonus item - (two (2) Dwelling Units per Acre):* Inclusion of at least two (2) buildings that are designated for nonresidential use on at least the first floor and with at least one (1) floor of offices above

a. *Pedestrian facilities - (two (2) Dwelling Units per Acre)*: Provision of an internal network of sidewalks in addition to those located along streets and buildings. These facilities shall be in addition to minimum requirements and sh*all be at least one thousand five* hundred (1,500) linear feet. These additional facilities shall be walking trails in residential areas, trails connecting residential areas to open space and mixed-use areas or noninvasive trails through environmental preserve areas.

b. *Public Water Access (two (2) Dwelling Units per Acre)*: The applicant shall reserve and specifically dedicate an area equal to the greater of one percent (1%) of the total project area or 10,000 square feet for Public Water Access. The applicant may increase their bonus to three (3) Dwelling Units per Acre if a pier open to the public or boat access is constructed on that Public Water Access by the applicant. This reservation and dedication can also count for the required open space and/or common space reservation required under these regulations.

c. Public Parks - *(one (1) Dwelling Unit per Acre)*: The applicant shall reserve and specifically dedicate to the public a park consisting of an open grassy area with not less than 20,000 square feet of area suitable for picnics, and children's play. This reservation and dedication counts for the required open space and/or common space reservation required under these regulations.

(e) **COMMON SPACE AND OPEN SPACE**.

(i) *Purpose:* It is intended that MXD developments be identifiable by functional common spaces and open space, including but not limited to: natural wetlands, forested areas, atriums, parks, internal courtyards, plazas, or other undisturbed or improved spaces.

Common spaces shall shape the design and character of the project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. The pedestrian spaces may include artwork, sculpture and water features to improve their appeal. These spaces shall be designed to create interaction among workers, residents, and shoppers. The spaces shall also attempt to provide a pleasant gathering place for transit usage.

Open spaces can be natural or recreational. Natural open spaces are intended to protect the natural environment, protect water quality, and provide habitat for wildlife. Recreation open spaces are intended to provide outdoor active recreation facilities and other activity areas for residents, shoppers, and employees.

Overlap between spaces considered common space and open space is possible. The definitions are not mutually exclusive. Each MXD project shall contain a minimum twenty (20) percent common space and a minimum ten (10) percent open space. The developer can propose the allocation of land to these categories. However, common space shall be primarily an area for social interaction and have more impervious surface. Open space shall be essentially unimproved pervious area with limited modifications.

a. *Common space:* At least twenty (20) percent of the acreage of the site shall be devoted to common spaces.

   (1) Common space includes areas where the public is directly or indirectly invited to gather, browse, sit, interact, or congregate. Common spaces do not have to be publicly owned. Common areas may include walking paths, bicycle paths, courtyards, plazas, and other similar areas. Unimproved natural areas shall not be counted as common space.

   (2) Common spaces shall be arranged as community spaces with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.

   (3) Common spaces are intended to be places for social interaction and may include impervious surfaces.

      (i) Common space amenities shall include at least three (3) of the following:

         1. Sidewalks with substantial ornamental treatments (e.g. brick pavers; change in materials, color, or texture; use of pervious materials when consistent with Americans with Disabilities Act).

         2. Sidewalk planters. Planters may be constructed to provide seating around the perimeter.

         3. Public art (e.g., sculpture, fountain, clock, mural, etc.).

4. Street trees of a caliper fifty (50) percent wider than required by this chapter (may include preservation of healthy mature trees adjacent to sidewalks).

(ii) Amenities should be visible and accessible to the general public from an improved street. Access to pocket parks, plazas, and sidewalks shall be provided via a right-of-way or a public access easement.

(iii) The size or capacity of pedestrian amenities should be proportional to their expected use, including use by employees, customers, residents, and other visitors.

(iv) Amenities should be consistent with the character and scale of surrounding developments. For example, similarity in awning height, bench style, planter materials, street trees, and pavers is recommended to foster continuity in the design of pedestrian areas. Materials should be suitable for outdoor use, easily maintained and have a reasonably long life cycle (e.g., ten (10) years before replacement).

(4) The walking areas of common spaces shall be surfaced with concrete, brick, tile, or another material approved by the Town Administrator. The type of surfacing material shall be identified on the site plan.

(5) Construction of bus shelters along project perimeters shall be mandatory wherever the project includes or is adjacent to an existing or previously identified transit line extension proposed in adopted documents by the Carteret County Area Transportation System, or another public transit provider.

(6) Parking area landscaping and buffer areas shall not be counted toward meeting this requirement.

b. *Open space:* A minimum ten (10) percent open space shall be provided.

(1) Open space is any area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Open space may include active recreational facilities such as swimming pools, tot lots, ball fields and picnic tables (recreation open

space). Open space may also include areas reserved for underground wastewater collection and treatment systems. However, improved recreational facilities, including golf courses, shall not exceed twenty-five (25) percent of the minimum required open space.

(2) Parking area landscaping and buffer areas shall be excluded from this calculation.

(3) No more than fifty (50) percent of the open space shall be covered by water unless approved by the Board of Commissioners as part of an active recreation area or regional stormwater facility. Standard stormwater retention facilities that meet only minimum Town requirements shall not be counted as open space.

(4) Construction of greenways shall be mandatory whenever the project includes or is adjacent to existing greenways, trails, or sidewalks, to provide pedestrian connectivity off-site.

(5) All open space shall remain undivided and no lot or unit owner or any other person shall bring any action for partition or division of any part thereof except as provided in G.S. Ch. 47C (Condominium Act). Active recreational facilities such as pools and tennis courts may be controlled by sub-associations for the residential components of the project. Each lot or unit owner's undivided interest in the use of reasonably maintained open space shall be preserved through covenants running with the land. Title to such areas shall be encumbered for the perpetual benefit of the public generally or the private properties in the development and all future use shall be consistent with the open space requirements. Improvements clearly incidental to the purpose of these provisions may be made within the open space.

(6) Access to open space: All residential lots or units created within the development shall have direct access to all open space and recreational facilities, as provided, by means of public streets or dedicated walkways or by the fact of physical contiguity to other public land or lands in common ownership of all residents. The developer shall not place age, race, creed, sex, or economic restrictions (other than

maintenance assessments) upon lot or unit owners for the use of said open space. Land which is restricted in any way so as to be for the use, benefit, or enjoyment of a select group within the development shall not qualify as open space.

(7) Open space provisions: The developer shall file a declaration of covenants and restrictions running with the land that will govern the open space. This declaration shall be submitted prior to final plat approval. When a property owners' association or other such nonprofit ownership is established, the declaration shall include but not be limited to the following:

(i) The homeowners' association or the nonprofit organization shall be established before any lots are sold;

(ii) Membership shall be mandatory for each lot buyer and successive buyer;

(iii) The association shall provide for liability insurance, any taxes, and the maintenance of all grounds and facilities;

(iv) Any sums levied by the association that remain unpaid shall become a lien upon the lot owner's property.

(f) **PROCEDURAL REQUIREMENTS FOR THE ESTABLISHMENT OF A MXD PROJECT.** Proposals for a project in the MXD shall be processed in four (4) stages: 1) conceptual review, 2) application/preliminary site assessment; 3) development approval; and 4) final plan/site plan approval. Each stage shall be processed in the following order:

(i) *Conceptual review:*

a. This is a scheduled pre-application conference held with the Town Administrator to discuss requirements, standards, and policies.

b. The general outline of the proposed MXD project (evidenced schematically by sketch plans or drawings showing the proposed location of the project adjacent land uses, major external streets, site conditions, land characteristics, available community facilities and utilities and other applicable information) shall be submitted by the applicant for conceptual

review at the pre-application conference. Conceptual review submittal shall include both one (1) printed copy and one (1) digital copy of the proposed plan.

c. After holding the required conference, the Town Administrator shall notify and provide a digital copy of the conceptual plan to the appropriate representatives of various Town agencies and neighborhood groups in order to obtain preliminary comments regarding the proposed MXD project. Any comments from Town agencies or neighborhood groups must be submitted to the Town Administrator no later than two (2) weeks after receipt of the plans for consideration. Upon receipt of these comments, the Town Administrator shall furnish the participants with comments, including appropriate recommendations.

d. For projects above two (2) acres, the applicant is strongly encouraged to meet with neighboring property owners to discuss the conceptual plan. A general summary of the meeting shall be provided to the Town Administrator.

(2) *Application/preliminary site assessment:*

a. An application to review a preliminary site assessment for a MXD project shall be filed with the Town thirty (30) days prior to the next scheduled Planning Board meeting. An applicant may request that preliminary site assessment and actual development approval be considered by the Town at the same time if applicant makes a complete submittal for both. In such case, the planning board will proceed simultaneously on both. However, simultaneous consideration is discretionary by the Town Board.

b. The application shall include:

i. A completed Traffic Impact Analysis of the proposed project according to Appendix A of this Ordinance.

ii. One or more plats drawn to scale which specify existing site conditions, the appropriateness of the site for mixed-use development, the location of proposed residential and non-residential areas within the MXD site, open areas, common areas, streets, sidewalks, pedestrian walk ways, buffers, border areas, utility plans, storm water systems,

development phases, and all other features of the proposed site and proposed development on the site.

iii. Sketch elevations and floor plans of buildings and structures proposed for construction on the site. (Note: For proposed single family detached dwellings sketches of typical architectural styles of the dwellings is required, but not floor plans.)

iv. Submittals for application/preliminary site assessment shall include both one (1) printed copy and one (1) digital copy of all documents.

c. At the option of the applicant, the application may include applications for any special uses applicant wishes to establish in the project; however, action on special use applications for the project will not occur until development approval.

d. The Planning Board will review the application at its next regularly scheduled meeting; however, the chairman of the planning board may reschedule the meeting for up to two weeks to accommodate the schedules of planning board members. The planning board itself may schedule one or more special meetings to review the application within two weeks following the date on which it meets to review the application.

e. The planning board's review of the application will be to determine whether the application meets the development criteria of this section.

f. Following its review, the planning board will:

i. Recommend preliminary approval to the Town Board of the project as submitted;

ii. Recommend preliminary approval to the Town Board with conditions; or

iii. Recommend rejection of the project specifying the reasons for the rejection.

g. Within 45 days following the receipt of the Planning Board's recommendations, the Town Board will review the application to determine whether the application meets the development criteria of this section. The mayor, or the Board itself, for good cause may extend the date of the review by an additional 15 days.

h. Following its review, the Town Board will:

i. Give preliminary approval of the project as submitted;

ii. Give preliminary approval with conditions; or

iii. Reject the project specifying the reasons for the rejection.

i. If the Town Board gives conditional approval, the applicant must agree to the conditions and incorporate them in the plats required for development approval.

j. If the Town Board rejects the application, the applicant shall have the right to modify the application to change the parts of the application the Town Board found non-compliant with the provisions of this section and re-submit to the Town Board for further review.

(3) MXD Development Approval*:*

a. Unless the applicant has done so during the preliminary site assessment, following preliminary approval he will submit a site plan prepared by a surveyor or professional engineer to standards for recording at the Carteret County Register of Deeds Office incorporating the elements of the project given preliminary approval by the Town Board. This site plan shall depict all aspects of the project including:

i. Boundaries of the project,

ii. Location of residential and non-residential areas,

iii. Exact location of non-residential buildings and multifamily buildings,

iv. Approximate locations of single family detached dwellings,

v. Interior lot lines on lots that will be sold as separate parcels,

vi. Open areas and common areas,

vii. Streets, sidewalks, pedestrian walk ways,

viii. Buffers and border areas,

ix. Utility plans,

x. Storm water systems

xi. Phases in which the applicant is prepared to commence work,

xii. Location of future phases.

xiii Uses within the future phases.

b. Unless the applicant has done so during the preliminary site assessment, following preliminary approval he will submit professionally prepared elevations and floor plans of buildings and structures proposed for construction on the site. (Note: For single family detached dwellings, elevations of typical architectural styles of the dwellings is required, but not floor plans.)

c. The planning board and Town Board will consider the site plan, building elevations and floor plans within an equivalent schedule for preliminary site assessment.

d. Development approval by the Town Board is authority for the applicant to procure his building and other development permits and to commence construction of the part of the project approved by the Town Board. No construction, excavation or clearing shall be commenced nor any building permit issued until development approval is given by the Town Board.

e. The site plan, building elevations and floor plans given development approval by the Town Board are deemed the project's master plan.

f. The applicant shall not be required to submit a separate subdivision application.

(4) Final Plat Approval: Upon substantial completion of the project, or a phase of the project, a final plat of the project, or a phase, prepared by a profession surveyor or engineer, incorporating all elements of the site plan given development approval by the Town and including shall be submitted to the Town Administrator for delivery to the Planning Board and Town Board.

a) The Planning Board and the Town Board will compare the proposed final plat to the master plan and will act on the final plat in the schedule provided for final plat approval for subdivisions.

b) In the event the Town Board finds material discrepancies between the master plan and the proposed final plat, the developer will be advised of the discrepancies and will be required to correct the same.

c) When he Town Board determines that the final plat reflects the master plan as approved, and that the project, or phase thereof, has been constructed according to the master plan, it will approve the final plat for recording at the Carteret County Register of Deeds Office, and the Town Administrator or the Town Clerk is authorized to sign the plat as evidence of the Town's approval.

d) The final plat will include the appropriate certificates set forth in Section 7.6.I.8(i) with the words "mixed use development" substituted for "subdivision" in the certificates as required by context.

i) The final plat will also include this certificate which will be signed by either the Town Administrator or Town Clerk:

"This development is approved and is subject to a master plan on file at Cedar Point Town Hall. No material changes to the development are permitted unless approved by the Town of Cedar Point."

e) No building or structure in the development, or a phase hereof, may be occupied until the final plat is recorded.

f) In the event of phased development, the developer will submit final plats for each phase as each phase is completed.

g) **AMENDMENTS**

(1) The Town may approve amendments to a master plan upon application of an owner of a property in the MXD development or an owners association within the development.

(2) Amendments will be processed through the same procedures for initial approval of the project.

5.9 OVERLAY ZONING DISTRICTS

A. CBOD Central Business Overlay District

1. General Requirements: The following general requirements will apply to the overlay district:

a. For the purposes of this ordinance, an overlay district is a district that supplements the underlying zoning district established on the site. In

addition to the requirements of the underlying zoning district(s), the requirements herein shall apply to all new construction, additions, alterations or expansions to existing buildings, parking lots or vehicular storage areas, unless explicitly exempted.

b. All uses permitted in the underlying zoning districts are allowed as regulated by said districts.

c. The specific development requirements of a particular overlay district shall apply uniformly to all property within said district.

2. Cedar Point Central Business Overlay District Established: The Cedar Point Central Business Overlay District is hereby established as an overlay district.

a. Boundaries of the Cedar Point Central Business Overlay District: All parcels in their entirety shall be included in the overlay if any portion of the lot is located within a distance of 3,000 feet from the center intersecting node of North Carolina Highway 58 and North Carolina Highway 24 on the west side of the centerline of North Carolina Highway 58. In addition, when a proposed site plan is submitted containing multiple lots and any portion of any lot located within the overall development is within the boundaries of the overlay district, the entire development will need to meet the requirements of this regulation.

b. Applicability:

i. Application: The Cedar Point Central Business Overlay District regulations shall apply to all principal buildings on lots or open uses of land constructed, reconstructed or established after ~~the effective date of this regulation,~~ March 28, 2006.[1]

ii. Exemptions: The Cedar Point Central Business Overlay District regulations shall not apply to:

(1) Single-family detached dwellings on their own lots.

(2) A change in use that does not result in a building footprint change.

(3) Those buildings and their accessory uses including parking or vehicular storage areas existing on ~~the effective date of this regulation,~~ March 28, 2006, whose gross square footage of building, parking area or open use of land is not expanded in excess of 3,000 square feet of that which existed on ~~the effective date of this regulation,~~ March 28, 2006.

[1] The original date of adoption of the regulation.

(4) Those projects that have an approved Site Specific Development Plan in compliance with Chapter 3.

iii. Expansion of Existing Uses: For those buildings, parking areas or open uses of land that are expanded in excess of 3,000 square feet of their gross square footage after ~~the effective date of this regulation,~~ March 28, 2006, the following requirements shall be met:

(1) Required buffer yard regulations in compliance with Section 7.3 for the entire development.

3. Review Process: All development proposals within the Cedar Point Business Overlay District shall submit a plan to the Planning Board to check for compliance with this and any other applicable ordinances.

a. Development Plan – The applicant shall, at a minimum, submit plans containing data and information consistent with all other applicable provisions of this ordinance.

b. Waiver of Overlay District Requirements – The applicant shall have the option of asking the Planning Board to waive certain aspects of this overlay if deemed necessary. The applicant must show the Planning Board and Board of Commissioners that the waiver is the result of site specific condition and not the result of problems created by the property owner and/or developer.

4. Design Standards: Developments shall comply with all applicable requirements of this regulation. In addition, the following design standards shall be followed: (In the event of inconsistencies, the standards contained in this section shall govern.)

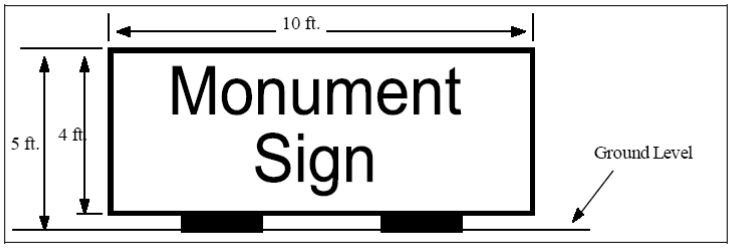
a. Signs

i. Freestanding Signs (Figure 1):

(1) Number - One freestanding sign shall be permitted per parcel. ~~(Amended March 23, 2010)~~

(2) Height - No freestanding sign shall exceed twenty feet in height.

Figure 1



ii. Wall Signs:

(1) The maximum total area of all allowable signs on the wall of a building shall be equal to no more than ten percent of the area of the wall of which such sign is a part or to which each such sign is attached. ~~(Amended March 23, 2010)~~

iii. Total Sign Area and Number of Signs ~~(Amended March 23, 2010)~~:

(1) The maximum aggregate of all allowable signs on each parcel, including freestanding, building or any other signs, shall be equal to 200 square feet. When a zoning parcel contains more than one principal use, the entire parcel shall be allowed 400 square feet of signage. The owner is responsible for allocating sign space on the parcel.

iv. Signs shall be located such that there is at every street intersection a clear view of sight distance between the heights of three feet and ten feet, and all signs shall be setback no less than five (5) feet from the right-of-way of any public street. In such case that a freestanding sign shall be located on the corner of two (2) rights-of-way, the sign shall have a setback of fifteen (15) feet from both rights-of-way.

v. No animated sign or moving or flashing signs shall be permitted.

vi. No portable signs shall be permitted.

vii. No temporary signs shall be permitted.

viii. No projecting or suspended signs shall be permitted.

ix. No inflatable signs or tethered balloons shall be permitted.

x. No beacons shall be permitted.

xi. No roof signs shall be permitted.

xii. No off-premises advertising signs (billboards) shall be permitted. Off-premises advertising signs existing at the time of the adoption of this Ordinance ~~regulation~~ shall be considered conforming, and may be repaired or replaced, ~~permissible subject to Section 7.18W.~~as long as it is not abandoned or expanded in size. ~~remains "in use".~~ If the off-premises advertising sign is not used for a consecutive period of twelve (12) months it is deemed abandoned. ~~or is substantially damaged, it shall be removed from the parcel. (Amended March 23, 2010)~~

xiii. Flags used as promotional devices of any type, including but not limited to the promotion of goods, services, business establishments, events, etc., shall be prohibited. National, state and corporate flags may be flown.

xiv. Computations:

(1) Computation of Area of Individual Signs – The area of the sign face (that is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

(2) Computations of Area of Multi-Faced Signs – The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

(3) Computation of Height – The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of

(a) existing grade prior to construction or

(b) the newly established grade after construction, exclusive of any filling, berming, mounding or excavating.

In cases where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of

the nearest point of the crown of a public street or grade of the land at the principal entrance to the principal structure on the parcel, whichever is lower. (Amended March 23, 2010)

(4) Computation of Maximum Total Permitted Sign Area for a parcel – The permitted sum of the area of all individual signs on a parcel may not be more than 200 square feet in total, except on parcels with more than one principal use where the maximum permitted sum of all signage can be 400 square feet. (Amended March 23, 2010)

b. Exterior Lighting Standards

i. Standards: The following standards are required of all exterior lighting except the outdoor recreational uses specifically exempted below. Many uses have the option of providing a lower light post with a non-cutoff type of luminaire or a higher pole, up to 40 feet, with a luminaire that totally cuts off light spillover at a cutoff angle smaller than 90 degrees.

The maximum height lightpost permitted is dependent upon the amount of cutoff provided. This is designed as a protection against excessive glare and light spilling over to neighboring properties. The exceptions that are permitted provide adequate protection for highway corridors and neighboring residential property.

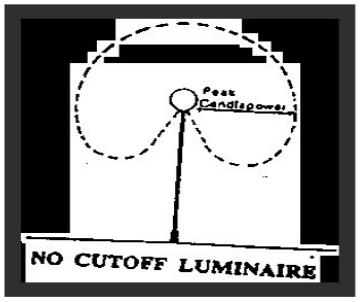
Exterior lighting shall meet one of the following standards:

(1) When lighting source or luminaire has no cutoff:

Standard	Maximum Permitted ~~Maintained~~ Illumination	Maximum Permitted Mounting Height of Illumination
Commercial Districts	0.20 footcandles	16 feet
Industrial Districts	0.30 footcandles	20 feet

An illustration of this type of luminaire is provided below:

An illustration of this type of luminaire is provided below:



(2) When a luminaire has total cutoff at 90 degrees:

The maximum illumination and the maximum permitted luminaire height shall be:

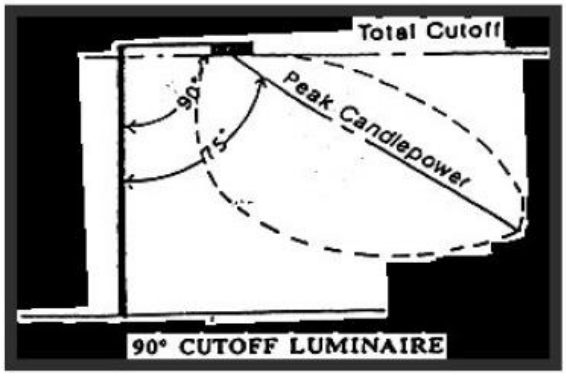
Standard	Maximum Permitted ~~Maintained~~ Illumination	Maximum Permitted Mounting Height of Illumination
Commercial and Industrial Districts	2.00 footcandles	30 ft.
	3.00 footcandles	40 ft.

~~Measured at the property line and any public right-of-way line.~~

~~Measured from the ground to the light source.~~

~~Footcandles (F) are to be calculated by dividing the lumens (L) by the distance to the property line squared (D2) (i.e. F = L / D2).~~

An illustration of this type of luminaire is provided below:



ii. Exemption for specified outdoor recreational uses:

(1) These standards shall not apply to properties subject to state or federal safe lighting standards.

(2) Because of their unique requirements for nighttime visibility and their limited hours of operation, ballfields and tennis courts are exempt from the exterior lighting standards provided above. These outdoor recreational uses must meet all other requirements of this overlay.

(3) The outdoor recreational uses specified above shall not exceed a maximum permitted post height of 80 feet.

iii. Additional Regulations: Not withstanding any other provision of this section to the contrary:

(1) This section does not apply to public street lighting.

(2) No flickering or flashing lights shall be permitted.

(3) Adequate lighting must be provided for the public safety in parking and similar areas.

iv. Exterior Lighting Plan: At the time any exterior lighting is installed or substantially modified, and whenever a zoning permit is sought, an exterior lighting plan shall be submitted to the Planning Department in order to determine whether the requirements of this section have been met.

~~iv.~~

Compliance with permitted illumination is determined by measuring at the property line and any public right-of-way line.

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Compliance with permitted mounting height is determined by measuring from the ground to the light source.

Footcandles (F) are to be calculated by dividing the lumens (L) by the distance to the property line squared (D2) (i.e. F = L / D2).

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c. Access Management and Parking Areas

i. Standards

(1) Access points along North Carolina Highway 58 and North Carolina Highway 24 to developments (such as curb cuts or driveways) shall be minimized. Unless proven to be necessary by a comprehensive traffic impact analysis, no direct access shall be permitted along North Carolina Highway 58 and North Carolina Highway 24 when access may obtained from Old Highway 58. The following chart lists the number of access points allowed based on road frontage and type of lot (Amended July 25, 2006):

Interior Lot (lot with only one side having road frontage)

0 - 350 feet 1 driveway

351 - 1,000 feet 2 driveways

More than 1,001 feet 3 driveways*

Corner Lot or Lot with Multiple Road Frontages

Access may be provided along any road except North Carolina Highway 58 and North Carolina Highway 24 onto which it fronts at the following rate:

0 - 350 feet 1 driveway

351 - 1,000 feet 2 driveways

More than 1,001 feet 3 driveways*

If the lot has more than 750 feet of road frontage along North Carolina Highway 58 and North Carolina Highway 24 and a Traffic Impact Analysis is performed by a qualified engineer at the property owner's expense that justifies having an access point along either North Carolina Highway 58 and North Carolina Highway 24, one access point may be approved by the Town Commissioners.

* Two driveways are the maximum number of driveways allowed per street frontage for any parcel, tract or development, including

access to any and all properties designated as outparcels or to be leased or sold for future development. The Planning Director may recommend to the Town Commissioners for their approval three driveways provided the parcel has at least 1,001 feet of frontage and a Traffic Impact Analysis is performed by a qualified engineer at the property owner's expense justifying an additional driveway.

(2) All driveway approaches for both mid-block and corner lots within this overlay district shall have both minimum corner and side clearances as below:

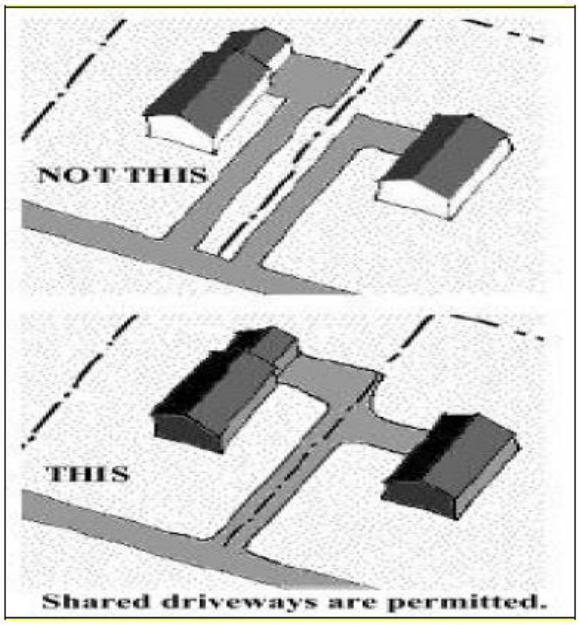
Corner Clearance, Ft.	100'
Side Clearance, Ft.	10'

(3) No access point shall be allowed within 10 feet of the side property line of any property or development except where a mutual access agreement exists between adjoining owners.

(4) All parcels containing more than one driveway must maintain a minimum of 100 feet of separation between them.

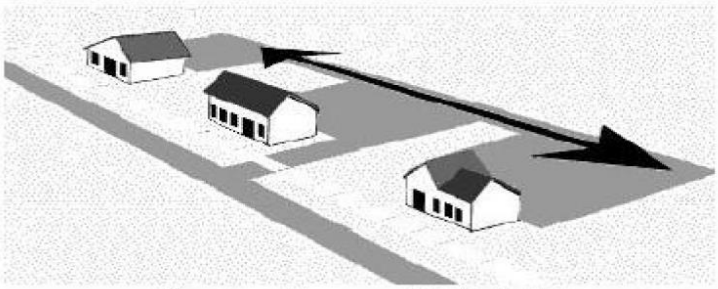
(5) Shared driveways are permitted and recommended (see Figure 2).

Figure 2



(6) Vehicular and pedestrian access between adjoining lots is mandatory. Location and specifications for the interior lot access points shall be determined during Planning Board review (see Figure 3). If at the time of construction the adjacent lot or lots are not being developed, the developer must provide stubouts to the adjacent lots. These stubouts will be located in accordance with the Planning Board's recommendation and provide for future access.

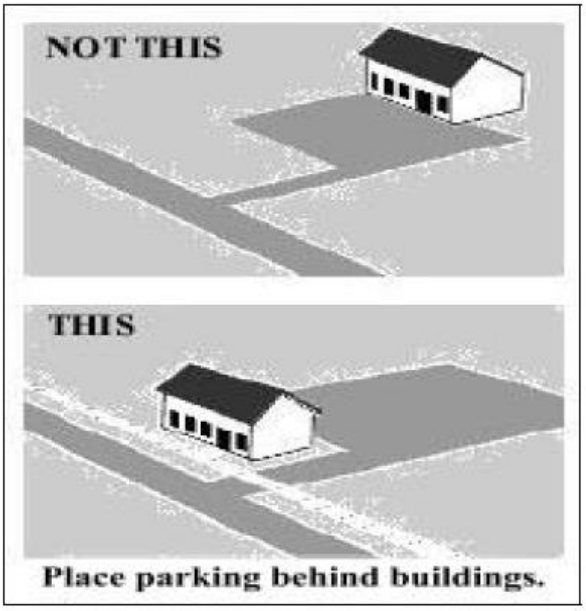
Figure 3



Connect parking areas at the back of lots.

In most cases PARKING shall only be permissible in the rear of the buildings. The maximum coverage of front yard setback by a parking lot and/or driveway shall be 20 percent. This regulation applies to commercial structures less than 100,000 square feet. In some cases the Planning Board and Board of Commissioners may allow parking to be located in the front of the commercial structure. (Amended July 25, 2006)

Figure 4



(8) Normal landscaping and parking requirements as stated in Sections 7.4 and 7.15 of this ordinance shall apply to all parking areas. In addition, landscaped areas shall be surrounded by a concrete curb or other material, such as landscape timbers, in order to protect the landscaped area and to define its borders.

(9)Any parcel of record on the effective date of this regulation that has prohibited all vehicular access based on the provisions herein shall be allowed one access point at a location approved by the Planning Board. (amended 12/19/2006)

d. Utility Wiring

i. Standards

(1) Wiring for utilities such as telephone, electrical, cable television, etc., or related functions shall be placed under ground.

e. Building Orientation

i. Standards

(1) The primary building entrance shall be oriented towards a public street. The primary entrance shall be designed for the pedestrian and be distinguishable from the rest of the building. Such entrances shall provide a sense of entry and add variety to the streetscape. Secondary entrances may be oriented toward side or rear parking lots. Service entrances for shipping and receiving shall be oriented away from the public street.

(2) Buildings should be located on the site so that services (such as trash collection, dumpsters, outbuildings) are not visible from the street.

f. Screening and Buffering

i. Screening Standards

(1) Dumpsters or trash-handling areas shall always be screened from adjacent properties and public view with a minimum six-foot high solid wooden fence or solid (and finished) masonry wall with a solid closeable gate. No chain link fencing may be used to comply with any part of this section. Dumpsters shall not be allowed in any required setback or yard space.

(2) Dumpster or mechanical equipment may not be placed in any yard that has access to a public street.

(3) Mechanical equipment shall be screened from the public street by walls, fencing and/or landscaping. Mechanical equipment on rooftops shall be screened from the view of the public street. No chain link fencing may be used to comply with any part of this section.

(4) A developer may choose to substantially screen from public view a parking area by utilizing an earthen berm, masonry wall or other suitable means of screening as determined by the Planning Board.

ii. Buffering Standards

(1) When any commercially zoned parcel within the jurisdiction of the Cedar Point Central Business Overlay District abuts and residentially zoned parcel, there shall remain a thirty-five (35) foot vegetative buffer to be approved by both the Planning Board and Board of Commissioners.

g. **Construction Standards**

i. Type of Construction: The predominate exterior building materials on a façade visible from a public street shall be of brick, textured masonry unit, stucco, stone, wood, cement fiber material (such as "Hardie board"), glass or the equivalent. No concrete masonry units, such as concrete blocks or cinder blocks, are permitted when visible from a public street unless they are

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textured to give the appearance of rough stone. The use of vinyl or metal siding is prohibited. Residential manufactured homes/units, n~~N~~on-residential manufactured homes/units, mobile, modular and metal units shall be prohibited, except for temporary use during construction or for storage of materials during construction. ~~The use of vinyl and metal siding or unpainted cinder block walls shall be prohibited, but the use of decorative, split-faced masonry products is permissible.~~

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ii. Building Mass: Historically, the buildings in Cedar Point were small and pedestrian scaled. Recently proposed developments include buildings which are more massive with large big-box stores and expansive parking areas. These developments have lost the human, intimate scale of Cedar Point.

Many techniques in this regulation provide tools for allowing large development while reducing their perceived massiveness. While the footprint of new commercial development may remain large, massing and organization of building forms can help to retain the human scale of Cedar Point.

There is a difference between **massively** scaled buildings and **monumentally** scaled buildings. Monumental buildings still relate to the human scale but are carefully made larger to exhibit a sense of importance. Buildings such as churches and institutional buildings are often built with this kind of scale in mind.

Massive buildings are simply huge buildings that dwarf and are not intended to relate to human scale. Airplane hangers, for instance, relate to the scale of an airplane and are therefore massive. When large retail stores become as massive as an airplane hanger, they lose their relationship to the human user and feel unfriendly.

(1) Use techniques to reduce the perceived mass of large buildings. When making transitions to lower density areas, modulate the mass of the building to relate to smaller buildings. Heights can be greater if the mass is modulated and other scale techniques are adopted. Reduce height near low density uses.

(2) Use building mass appropriate to the site. Place buildings of the greatest footprint, massing, and height in activity center core areas or at the heart of office developments where the impact on adjacent uses is the least.

(3) Floor-to-floor heights of a building can have an impact on the mass of a building. For instance, typical ceiling heights in a residence are 8-9 feet. First floors of office buildings or retail shops can range from 10-15 feet. Upper floors that include residential or office are generally 8-12

feet in height. Big-box retailers may have floor to ceiling heights exceeding 15 feet. When actual or implied floor-to-floor heights exceed these dimensions on the exterior, then a building may begin to read more massive than human scaled. When articulating large buildings, keep these dimensions in mind.

iii. Building Size Limitations: The Cedar Point Business Overlay District shall be limited to only one commercial structure not to exceed 125,000 square feet of total structural building area, whether on one floor or multiple floors, including all attached portions, on any single parcel of land to serve as the principle structure of the Overlay District. Supporting structures shall be limited to a maximum of 50,000 square feet of total structural building area, whether on one floor or multiple floors, including all attached portions, on any single parcel of land

iv. Building Elements and Materials

This section addresses the design elements that impact the exterior appearance of a building including:

• roof form and articulation;

• facade articulation;

• architectural details;

• materials and textures; and

• color.

These elements contribute to a human scale and provide an interesting and coherent architectural character to the Town. Over-scaled features, haphazard designs, and bland use of materials can undermine the overall character and quality of the community.

Applicants are required to submit color renderings, color elevation drawings or color photographs with the site plan which must be approved by the Planning Board prior to issuance of a development permit.

(1) Use **designs that contribute to a human scale**.

• Avoid large expanses of blank walls where pedestrian movement is desired.

• Avoid oversized design elements.

• Include human-scale elements, particularly at street level and on facades with a pedestrian focus.

(2) As appropriate, **establish a design theme** to give a distinctive character to a specific area.
• Establish design themes at the core of Activity Centers that: have a palette of materials, forms and features; create a coordinated but inviting mix of buildings and spaces; and establish a unique identity for each activity center.

• Establish design themes for office and industrial parks. These types of developments can take on a "campus" appearance where roof forms, building heights, materials, and details such as windows all relate more closely to one another, creating a very unified appearance.

(3) Provide **attractive facade treatments** on any elevation that is visible from streets or from any primary elevations of adjoining developments. Use the same materials for all building elevations. Avoid blank walls on elevations facing arterials and collector streets.

(4) Balance **repetition of design elements** with room for individuality.
• Similar setbacks and spacing can create a similar character while allowing diversity among building designs.

• Use repetitive design elements enough to provide continuity but avoid having more than two to three identical buildings in a row.

• Provide opportunities for different colors or other individual design elements.

• Consider using different styles, but similar scale, quality of construction, and siting.

(5) When making **transitions between developments,** avoid jarring contrasts in materials or building styles.

(6) Strive for **designs and materials** that reflect the architectural traditions of the region such as gable roofs, brick and siding.

(7)Use **roof forms** that complement the building design and contribute to a human scale.
• An articulated roof adds visual interest and human scale. Avoid a monolithic expanse of roof on large-scale buildings. Break the roof mass with elements such as gables, dormers, or parapets.

• Steeper forms are associated with more traditional design and can be appropriate in and near neighborhoods.

(8) **Architectural details** are important tools to create human scale and architectural character. Techniques include highlighting foundations,

lintels, sills and cornices with contrasting materials and breaking up the mass of the building with bands at floor levels or projections at entries. These techniques are only a few of the ways to transform a massive building into one of human scale. Consider the facade design of all buildings; even service buildings can have attractive facades.

(9) The choice of **materials and texture** has great visual significance. Using different materials for such features as foundations, quoins, cornices, and window lintels can add eye catching details. In addition, coordinating materials within a development can tie together buildings of different sizes, uses, and forms. Modern construction materials offer choices that can provide many different looks and textures.

• Use material changes to help reduce mass and provide visual interest.

• Choose materials that offer texture and avoid monotonous surfaces. For example, use wood or brick or stone, or new synthetic materials that approximate the look and dimension of these materials. Use these quality materials on all visible sides of commercial, office and residential buildings. Avoid prefabricated building types except in industrial parks.

• Choose roof materials that contribute texture, patterns, and color. Standing-seam metal roofs give a traditional feel. Asphalt shingles are offered in a wide variety of styles and colors and can approximate many different looks, even slate.

• Use consistent materials on all sides of a building.

(10) **Color** is an integral element of the overall design. Brick, concrete, and stone will have an inherent color, created by nature or during the manufacturing process. Other surfaces will get their color from applied materials such as paint. Awnings provide another opportunity for color.

• A coordinated palette of colors should be created for each development. This palette should be compatible with adjacent developments.

• Set the color theme by choosing the color for the material with the most area. If there is more roof than wall area in a development, roof color will be the most important color choice and will set the tone for the rest of the colors.

• Limit the number of color choices. Generally there is a wall color, trim color, accent color, and roof color.

• Use natural tints of materials such as reds, browns, tans, grays, and greens as primary colors. Save bright accent colors for awnings and

signs on commercial buildings. Brighter palettes of colors can be employed on residential buildings.

• Use color variation to break up the mass of a building and provide visual interest.

v. Traffic Impact Analysis Requirement: A Traffic Impact Analysis (TIA) shall be required for commercial/industrial type developments proposed within Town of Cedar Point's Central Business Overlay District with an estimated trip generation of **3,000 vehicles** per day or greater during an average weekday based on a five day national average as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The TIA shall be developed in accordance with "Appendix A" of this Ordinance.

Chapter 5A. Flood Damage Prevention

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5A.10 FLOOD DAMAGE PREVENTION

A. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1. STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has delegated to local governmental the responsibility units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry in N.C.G.S. 160A Articles 8 and 19 and to specifically regulate construction in floodways pursuant to Chapter 143, Article 21, part 6 of the Gneral Statutes of North Carolina. ~~.~~

2. FINDINGS OF FACT

(a) The flood prone areas within the jurisdiction of the Town of Cedar Point are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

3. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(a) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(b) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(c) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(d) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
(e) prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

4. OBJECTIVES

The objectives of this chapter are:

(a) to protect human life and health;
(b) to minimize expenditure of public money for costly flood control projects;
(c) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(d) to minimize prolonged business losses and interruptions;
(e) to minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
(f) to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
(g) to ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

B. GENERAL PROVISIONS

1. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the Town of Cedar Point and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

2. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas are those identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Hazard Boundary Map (FHBM) or Flood Insurance Study (FIS) and its accompanying flood maps such as the Flood Insurance Rate Map(s) (FIRM) and/or the Flood Boundary Floodway Map(s) (FBFM), for Carteret County dated November 3, 2005, as amended, which with accompanying supporting data, and any revision thereto, including Letters of Map Amendment or Revision, are adopted by reference and declared to be a part of this ordinance. The Special Flood Hazard Areas (SFHA) also include those defined through

standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood data:

(a) generated as a requirement of Section 5.10.C.3 (k) and (l) of this ordinance;
(b) preliminary FIRMs where more stringent than the effective FIRM; or
(c) post-disaster Flood Recovery Maps.

In addition, upon annexation to the Town of Cedar Point or inclusion in the Extra- Territorial Jurisdiction (ETJ), the Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the Cooperating Technical State agreement between the State of North Carolina and FEMA as stated above for the Unincorporated Areas of Carteret County, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.

3. ESTABLISHMENT OF A FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this Chapter prior to the commencement of any development activities within Special Flood Hazard Areas as determined in Section 5.10.B.2.

4. COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

5. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

(a) considered as minimum requirements;
(b) liberally construed in favor of the governing body; and
(c) deemed neither to limit nor repeal any other powers granted under State statutes.

7. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that

land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Cedar Point or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

8. PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation under this ordinance, remedies and punishments described in *Chapter 4, ENFORCEMENT* shall be applied.

C. ADMINISTRATION

1. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Town Administrator, or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

2. FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS

(a) Plans and Application Requirements. Application for a Floodplain Development Permit shall be made to the floodplain administrator on forms furnished by him or her prior to any development activities proposed to be located within flood prone areas. The following items/information shall be presented to the floodplain administrator to apply for a floodplain development permit.

i. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

a. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;

b. the boundary of the SFHA as delineated on the FIRM or other flood map as determined in Section 5.10.B.2. or a statement that the entire lot is within the SFHA;

c. flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 5.10.B.2.

d. the boundary of the floodway(s) or non- encroachment area(s) as determined in Section 5.10.B.2.
e. the Base Flood Elevation (BFE) where provided as set forth in Section 5.10.B.2; Section 5.10.C.3(k) and (l); or Section 5.10.D.3, 5.10.D.4 and 5.10.D.2(e);
f. the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
g. the boundary and effective date of COBRA zone or OPA, if applicable; and
h. preparation of the plot plan by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

ii. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
A. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
B. Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
C. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood proofed;

iii. If flood proofing, a flood proofing certificate and back-up plans from a registered professional engineer or architect certifying that the non-residential flood-proofed development will meet the flood-proofing criteria in Section 5.10.D.2(b) and any other applicable provision of this ordinance.

iv. A Foundation Plan drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Chapter are met. These details include but are not limited to:
A. Proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/piers);
B. Should solid foundation perimeter walls be used in floodplains other than coastal high hazard areas, details of sufficient openings to facilitate the unimpeded movements of floodwaters;
C. In Coastal High Hazard Areas, the following must also be submitted prior to floodplain development permit issuance:
1. V-zone Certification form with accompanying plans and specifications verifying the engineered structure and breakaway wall designs as set forth in Section 5.10.D.2(d)(ii) of this ordinance.

2. Plans for latticework or decorative screening, if applicable. Plans for any structures that will have lattice work or decorative screening must be submitted to the floodplain administrator for approval prior to floodplain development permit issuance;
3. Plans for non-structural fill, if applicable. Plans for placement of any non-structural fill must be submitted to the floodplain administrator for approval prior to floodplain development permit issuance. Requirements are detailed in Section 5.10.D.7(h) of this ordinance.

v. Usage details of any enclosed space below the regulatory flood protection elevation.
vi. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
vii. Copy of all other Local, State and Federal permits required prior to floodplain development permit issuance (i.e. Wetlands, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.)
viii. If floodplain development permit is issued for placement of Recreational Vehicles and/or Temporary Structures, documentation to ensure Sections 5.10.D.2(f) & (g) of this ordinance are met.
ix. If a watercourse is proposed to be altered and/or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(b) Floodplain Development Permit Data Requirements. The following information shall be provided at a minimum on the Floodplain Development Permit to ensure compliance with this Chapter:
i. A description of the development to be permitted under the floodplain development permit issuance.
ii. The Special Flood Hazard Area determination for the proposed development per available data specified in Section 5.10.B.2.
iii. The regulatory flood protection elevation required for the reference level and all attendant utilities.
iv. The regulatory flood protection elevation required for the protection of all public utilities.
v. All certification submittal requirements with timelines.

vi. State that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, if applicable.

(c) Certification Requirements.

i. An Elevation Certificate (FEMA Form 81-31) or Flood Proofing Certificate (FEMA Form 81- 65) is required after the reference level is completed. Within twenty-one (21) calendar days of establishment of the reference level elevation, or flood proofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, or flood proofed elevation, whichever is applicable in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land, surveyor or professional engineer and certified by same. When flood proofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make said corrections required shall be cause to issue a stop-work order for the project.

ii. A Final As-Built Elevation Certificate (FEMA Form 81-31) or Flood proofing Certificate (FEMA Form 81-65) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation or flood proofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another

certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

iii. A V-Zone/Breakaway Wall Certification is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the floodplain administrator said certification to ensure the design standards of this Chapter are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Chapter. This certification is a substitute for an Elevation Certificate.

iv. If a manufactured home is placed within an A, AO, AE, or A1-30 zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per Section 5.10.D.2(c).

v. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

vi. Certification Exemptions. The following structures, if located within A, AO, AE or A1- 30 zones, are exempt from the elevation/flood proofing certification requirements specified in items (1) and (2) above:

A. Recreational Vehicles meeting requirements of Section 5.10.D.2(f)(i);
B. Temporary Structures meeting requirements of Section 5.10.D.2(g); and
C. Accessory Structures less than 150 square feet meeting requirements of Section 5.10.D.2(h).

3. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator shall include, but not be limited to:

(a) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

(b) Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(c) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(e) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 5.10.D.4 are met.

(f) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with Section 5.10.C.2(c).

(g) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been flood proofed, in accordance with Section 5.10.C.2(c).

(h) Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with Section 5.10.C.2(c).

(i) When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 5.10.C.2(c) and as may otherwise be required in this Section.

(j) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.

(k) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 5.10.B.2, obtain, review, and reasonably utilize

any Base Flood Elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a Federal, State, or other source, in order to administer the provisions of this Chapter.

(l) When Base Flood Elevation (BFE) data is provided but no floodway nor non- encroachment area data has been provided in accordance with Section 5.10.B.2, obtain, review, and reasonably utilize any floodway data, and/or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Section.

(m) When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. A copy of the Letter of Map Amendment issued from FEMA will be maintained by the floodplain administrator in the floodplain development permit file.

(n) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.

(o) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(p) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(q) Revocation of floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or

misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(r) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(s) Follow through with corrective procedures of Section 5.10.C.4.

4. CORRECTIVE PROCEDURES

(a) VIOLATIONS TO BE CORRECTED: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.

(b) ACTIONS IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

i. that the building or property is in violation of the Flood Damage Prevention Ordinance;

ii. that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,

iii. that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(c) ORDER TO TAKE CORRECTIVE ACTION: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the floodplain administrator finds that there is imminent danger to life or other

property, they may order that corrective action be taken in such lesser period as may be feasible.

(d) APPEAL: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(e) FAILURE TO COMPLY WITH ORDER: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

5. VARIANCE PROCEDURES

(a) The Zoning Board of Adjustment as established by Cedar Point, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(b) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Section 160A-388 of the North Carolina General Statutes.

(c) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(d) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

i. the danger that materials may be swept onto other lands to the injury of others;

ii. the danger to life and property due to flooding or erosion damage;

iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. the importance of the services provided by the proposed facility to the community;

v. the necessity to the facility of a waterfront location, where applicable;

vi. the availability of alternative locations, not subject to flooding or

erosion damage, for the proposed use;

vii. the compatibility of the proposed use with existing and anticipated development;

viii. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;

x. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

xi. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(e) A written report addressing each of the above factors shall be submitted with the application for a variance.

(f) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(g) Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.

(h) Conditions for Variances:

i. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

ii. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

iii. Variances shall only be issued upon:

A. a showing of good and sufficient cause;

B. a determination that failure to grant the variance would result in exceptional hardship; and

C. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(i) Any applicant to whom, a variance is granted shall be given written

notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.

(j) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

D. PROVISIONS FOR FLOOD HAZARD REDUCTION

1. GENERAL STANDARDS

In all Special Flood Hazard Areas, the following provisions are required:

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(c) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.

(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric outlets/switches.

(e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(g) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(h) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

(i) Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall prevent the repair,

reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non- encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

(j) New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in Special Flood Hazard Areas. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified according to Section 5.10.C.2(c).

2. SPECIFIC STANDARDS

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 5.10.B.2 or Section 5.10.C.3 (k) and (l), the following provisions are required:

(a) RESIDENTIAL CONSTRUCTION. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

(b) NON-RESIDENTIAL CONSTRUCTION. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in A, AO, AE and A1-30 Zones may be flood proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 5.10.C.2(c).

(c) MANUFACTURED HOMES

i. New or replacement manufactured homes shall be elevated so

that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.

ii. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty- six (36) inches in height, an engineering certification is required.

iii. All enclosures or skirting below the lowest floor shall meet the requirements of Section 5.10.D.2(d).

iv. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks, or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

(d) ELEVATED BUILDINGS. New construction or substantial improvements of elevated buildings that include fully enclosed areas that are below the regulatory flood protection elevation shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises, be constructed entirely of flood resistant materials below the regulatory flood protection level and meet the following design criteria:

i. In A, AO, AE, and A1-30 zones, measures for complying with this requirement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. To meet this requirement, the foundation must either be certified by a professional engineer or architect or meet the following minimum design criteria:

   A. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

   B. The total net area of all openings must be at least one (1) square inch for each square foot of each enclosed area subject to

flooding.

C. If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter;
D. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade; and,
E. Openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions.
F. Foundation enclosures:
    1. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore, such skirting does not require hydrostatic openings as outlined above.
    2. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.
    3. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

ii. In Coastal High Hazard Areas (VE and V1-30 zones), breakaway walls, lattice work or decorative screening shall be allowed below the regulatory flood protection elevation provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used and provided the following design specifications are met:
A. Material shall consist of open wood lattice or mesh insect screening; or
B. Breakaway walls meeting the following design specifications:
    1. Design safe loading resistance of each wall shall be not less than 10 nor more than 20 pounds per square foot, or
    2. If more than 20 pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the

elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non- structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

(e) ADDITIONS/IMPROVEMENTS

i. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

A. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

B. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

ii. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

iii. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

A. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

B. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

iv. Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(f) RECREATIONAL VEHICLES. Recreation vehicles placed on sites within a Special Flood Hazard Area shall either:

i. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for

highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

ii. meet all the requirements for new construction, including anchoring and elevation requirements of Section 5.10.C.2, Section 5.10.D.1, Section 5.10.D.2(c) and as may be required in other sections of this ordinance.

(g) TEMPORARY STRUCTURES.

Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

i. Applicants must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood warning notification. The plan must include the following information:
   A. a specified time period for which the temporary use will be permitted;
   B. the name, address, and phone number of the individual responsible for the removal of the temporary structure;
   C. the time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
   D. a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and
   E. designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.

ii. The above information shall be submitted in writing to the floodplain administrator for review and written approval.

(h) ACCESSORY STRUCTURES. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

i. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

ii. Accessory structures shall be designed to have low flood damage potential;

iii. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

iv. Accessory structures shall be firmly anchored in accordance with

Section 5.10.D.1(a*);*

v. All service facilities such as electrical shall be installed in accordance with Section 5.10.D.1(d); and

vi. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 5.10.D.2(d)(i).

vii. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood proofing certificate. Elevation or flood proofing certifications are required for all other accessory structures in accordance with Section 5.10.C.2*(c).*

3. **SUBDIVISIONS, MANUFACTURED HOME PARKS AND MAJOR DEVELOPMENTS.**

All subdivision, manufactured home park and major development proposals located within Special Flood Hazard Areas shall:

(a) be consistent with the need to minimize flood damage;

(b) have public utilities and facilities such as sewer gas, electrical, and water systems located and constructed to minimize flood damage;

(c) have adequate drainage provided to reduce exposure to flood hazards; and,

(d) have Base Flood Elevation (BFE) data provided if development is greater than the lesser of five (5) acres or fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 5.10.B.2 to be utilized in implementing this Chapter.

4. **STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS**.

Within the Special Flood Hazard Areas established in Section 5.6.B.2, where no Base Flood Elevation (BFE) data has been provided, the following provisions shall apply:

(a) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty feet each side from top of bank or five times the width of the stream whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also

comply with all applicable provisions of this Chapter and shall be elevated or flood proofed in accordance with elevations established in accordance with Section 5.10.C.2. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source, the reference level, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

5. **STANDARDS FOR FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON ENCROACHMENT AREAS**
Along rivers and streams where Base Flood Elevation (BFE) data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

6. **FLOODWAYS AND NON-ENCROACHMENT AREAS**
Located within the Special Flood Hazard Areas established in Section 5.10.B.2 are areas designated as floodways or non-encroachment areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions shall apply to all development within such areas:

(a) No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the floodplain administrator prior to issuance of floodplain development permit.

(b) If Section 5.10.D.6(a) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(c) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

i. the anchoring and the elevation standards of Section 5.10.D.2(c); and

ii. the no encroachment standard of Section 5.10.D.6(a).

7. COASTAL HIGH HAZARD AREAS (VE and V1-30 Zones).

Coastal High Hazard Areas are Special Flood Hazard Areas established in Division III and designated as Zones VE or V1-30. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this Chapter, the following provisions shall apply to all new construction, substantial improvements, and all other development:

(a) All development shall:
   i. be located landward of the reach of mean high tide;
   ii. be located landward of the first line of stable natural vegetation, and
   iii. comply with all applicable CAMA setback requirements.

(b) All development shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than the regulatory flood protection elevation. Flood proofing may not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.

(c) All space below the regulatory flood protection elevation shall be open so as not to impede the flow of water.

(d) Open wood latticework or mesh insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action. Design plans shall be submitted in accordance with Section 5.10.C.2(a)(iv)(c).

(e) All development shall be securely anchored on pilings or columns.

(f) All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(g) A registered professional engineer or architect shall certify that the design, specifications and plan for construction are in compliance with the provisions contained in Section 5.10.C.2, Section 5.10.D.7(d), (f) and (h) of this ordinance.

(h) There shall be no fill used as structural support. Non-compacted fill may be used around the perimeter of a building for landscaping aesthetic purposes provided the fill will wash out from storm surge, thereby rendering the building free of obstruction prior to generating excessive loading forces, ramping effects, or wave deflection. Design plans shall be submitted in accordance with Section 5.10.C.2(a)(iv)(b). The floodplain administrator may approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil

scientist which demonstrates that the following factors have been fully considered:

i. Particle composition of fill material does not have a tendency for excessive natural compaction;

ii. Volume and distribution of fill will not cause wave deflection to adjacent properties; and,

iii. Slope of fill will not cause wave run-up or ramping.

(i) There shall be no alteration of sand dunes that would increase potential flood damage.

(j) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards are in compliance with this ordinance.

(k) Recreational vehicles shall be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 5.10.D.2(f)(i) and the Temporary Structure provisions of Section 5.10.D.2(g).

8. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO Zones).

Located within the Special Flood Hazard Areas established in Section 5.10.B.2, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions shall apply within such areas:

(a) All new construction and substantial improvements of all structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least to the regulatory flood protection elevation as defined for the Special Flood Hazard Areas where no BFE has been established.

(b) All new construction and substantial improvements of non-residential structures shall have the option to, in lieu of elevation, be completely flood proofed together with attendant utilities and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Section 5.10.C.2(c) and Section 5.10.D.2(b).

E. LEGAL STATUS PROVISIONS

1. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance as originally enacted and amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Cedar Point that were previously enacted or amended, which are not reenacted herein are repealed.

2. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

Chapter 6 – Use Standards

6.1 USE TABLE

A. EXPLANATION OF USE TABLE STRUCTURE

For each base zoning district established in this Ordinance, *Table 6.1.1, Table of Permitted Uses*, lists land uses and indicates whether individual uses are:

1. Permitted by right;
2. Permitted with a Special Use Permit.

B. UNLISTED USES

1. Procedure for Approving Unlisted Uses

Where this Ordinance does not list a use as a permitted use or special use in a zoning district, and such use is also not prohibited or restricted by this Ordinance or elsewhere in the Town Code, upon application for a building permit or any permit required under this Ordinance the Town Administrator, in the case of a permitted use, or the Town Board, in the case of a special use, may allow the unlisted use as provided in subsections (2) or (3) below upon a finding that the proposed unlisted use:

(a) is similar to permitted or special use allowed in the specific zoning district and has an impact that is substantially the same in nature, function, and duration as the permitted or special uses allowed in the specific zoning district where the unlisted use is proposed, and

(b) has no adverse impact on neighboring properties or the public interest greater than adverse impacts of permitted or special uses in the zoning district where the property is located.

In considering a permit for an unlisted use, the Town Administrator or Board shall give due consideration to the intent of this Chapter and other provisions of the Town Code concerning the district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question.

2. Criteria for Approving Unlisted Uses

(a) Substantial equivalent of a permitted use. The Town Administrator will determine whether the application for an unlisted use is the substantial equivalent of a permitted use.

1. *Schedule a Hearing*. The Town Administrator will schedule a hearing on the application as he determines whether the application is the substantial equivalent of a permitted use in the zoning district. At least two weeks prior to the hearing, he shall mail a notice of the hearing to the adjacent property owners by regular first class mail using the names and addresses for such owners as contained on the Carteret County GIS website. He shall also provide notice of the hearing to the Cedar Point Mayor and Board of Commissioners.

~~2.~~ *Parties in Interest*. ~~Whether or not the Town Administrator calls for a hearing on the application,~~ Aadjacent property owners and the Town of Cedar Point are deemed to be interested parties and shall have standing to appeal the Town Administrator's decision to the Board of Adjustment. ~~.~~

~~3.~~2. *Criteria*. In order to determine that the proposed use has an impact that is similar in nature, function, and duration to a permitted use allowed in the specific zoning district where the property is located, the Town Administrator shall assess all relevant

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characteristics of the proposed use, including but not limited to the following:

(i) The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;

(ii) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing;

(iii) The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);

(iv) The type, size and nature of buildings and structures;

(v) The number and density of persons who will occupy, visit or attend the use;

(vi) Vehicular and pedestrian traffic including types of vehicles conveying persons or property to a use and characteristics of traffic generation to and from the site;

(vii) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses;

(viii) The amount and nature of any adverse impact generated from or accessing the premises, including but not limited to noise, smoke, odor, lighting, glare, vibration, radiation and fumes;

(ix) Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities;

(x) The fundamental nature of the proposed use compared to permitted uses; ~~and~~

(xi) Any special government service requirements for serving the proposed use, including law enforcement and public works; and~~.~~

~~(xi)~~(xii) The anticipated hours of operation of the unlisted use compared to the typical hours of operation of the comparable use. I

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~~4.~~3. Determination by the Town Administrator. All determinations by the Town Administrator made pursuant to this subsection shall be in writing.

~~5.~~4. Appeal of Determination of the Town Administrator. Within 10~~30~~ days of issuance or denial, the determination of the Town Administrator may be appealed to the Zoning Board of Adjustment pursuant to the procedures set forth Article XI of this Ordinance; however, notwithstanding any provisions of this Ordinance or the General Statutes to the contrary (a) the review by the Board of Adjustment shall be *de novo*, and (b) adjacent

owners and/or the Town of Cedar Point will have standing to appeal and/or participate in the appeal even if they did not participate at the Town Administrator decision level.

(b) Substantial equivalent of a special use. If the Town Administrator determines that an unlisted use is not the substantial equivalent of a permitted use, the applicant may petition the Board of Commissioners for a determination of whether the proposed unlisted use is the substantial equivalent of a special use in the district. Such petition may be combined with an application for a special use permit per Section 15-429 of Article X of the Zoning Ordinance. The Board of Commissioners will determine if the proposed use is the substantial equivalent of a special use in the zoning district where the property is located, and, upon such finding, whether a special use permit will be issued.

1. *Hearing.* The Town Board will schedule a hearing on the application. The hearing may be combined with the hearing provided on special use permit applications. At least two weeks prior to the hearing, the Town Clerk shall mail a notice of the hearing to the adjacent property owners by regular first class mail using the names and addresses for such owners as contained on the Carteret County GIS website.

2. *Parties in Interest.* Adjacent property owners are deemed to be interested parties.

3. In order to determine that the proposed use has an impact that is similar in nature, function, and duration as a special use allowed in the specific zoning district where the property is located, the Town Board shall assess all relevant characteristics of the proposed use, including but not limited to the following:

(i) The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;

(ii) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing;

(iii) The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);

(iv) The type, size and nature of buildings and structures;

(v) The number and density of persons who will occupy, visit or attend the use;

(vi) Vehicular and pedestrian traffic including types of vehicles conveying persons or property to a use and characteristics of traffic generation to and from the site;

(vii) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses;

(viii) The amount and nature of any adverse impact generated from or accessing the premises, including but not limited to noise, smoke, odor, lighting, glare, vibration, radiation and fumes;

(ix) Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities;

(x) The fundamental nature of the proposed use compared to permitted or special uses within the district; ~~and~~

(xi) Any special government service requirements for serving the proposed use, including law enforcement and public works; and ~~.~~

(xiii) The anticipated hours of operation of the unlisted use compared to the typical hours of operation of the comparable use. I

(4) Determination by the Town Board. The determination by the Town Board made pursuant to this sub section shall be in writing.

(5) Appeal of Determination of the Town Board. Within 30 days of issuance or denial, the determination of the Town Board may be appealed to superior court as provided by the General Statutes.

3. Town Administrator Initiation of Amendment. The Town Administrator shall initiate a proposed amendment to this Chapter if the particular unlisted use or category of use(s) is likely to be common or to recur frequently.

4. **Uses Deemed Prohibited**. Uses of land that are not listed as permitted or special uses in the zoning district where the land is located, or that are not approved by the Town Administrator or Town Board under this section, are prohibited. Application under this section for approval of an unlisted use, and appeal of an adverse ruling to the Board of Adjustment or the superior court, as applicable, shall be deemed an essential administrative remedy, without prejudice to an owner's right to apply for a text change amendment to this Chapter in an effort to have a specific use added as a permitted or special use, or to apply to have his property zoned to a conditional use district where his proposed use may be permitted.

C. USES PERMITTED IN ALL DISTRICTS

1. Within all districts there are certain uses permitted as a matter of right that are not specifically included within *Table 6.1.1, Table of Permitted Uses*. The following uses are allowed in all districts provided they meet other applicable requirements of this Ordinance:
   (a) Above ground and buried utility lines for local distribution of electricity, telephone, and cable television service; accessory and appurtenant apparatus such as poles, guy wires, transformers and switching boxes. High voltage transmission lines are not included in this exception.
   (b) Temporary buildings and structures used in connection with the construction of a permanent building.
   (c) Off street parking as a required accessory use to a permitted use.
   (d) Public and private streets, roads, and railroad rights-of-way.
   (e) Sanitary sewer collection lines, water, gas, liquid fuel distribution lines, and any necessary on-line pumping stations.

2. The following uses are also permitted in all zoning districts upon the issuance of a Zoning Compliance permit documenting compliance with relevant provisions of this Ordinance:
    (a) Fences

D. COMBINATION USES

1. A combination use is a use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permitted Uses. Combination uses shall be permissible on a lot only if each component principal use is permissible in the district where the lot is located.
2. When a combination use consists of two or more principal uses each of which requires a different type of permit (Special Use Permit) then the permit authorizing the combination use shall be:
    (a) A Special Use Permit if any of the principal uses combined requires a Special Use Permit.
3. When two principal uses are combined, the total amount of parking required for the combination use shall be determined by adding together the amount of parking required for each individual principal use according to the relative amount of space occupied by that use, taking into consideration any shared parking allowed under this Ordinance.

E. ACCESSORY USES

1. The following list provides examples of expected accessory uses in residential zoning districts. This list is not exhaustive. When determining whether an activity is an allowed accessory use, the definition of accessory use and the impact of the activity shall be considered. A zoning permit and building permit may be required for some accessory uses and determined by the Town Administrator or his/her designee.
    (a) Yard and/or garage sales for residents of residential districts to conduct no more than two (2) yard sales per year neither of which exceed three days in length. There shall be at least three (3) weeks between sale events.
    (b) Parking/storage of unused or unoccupied boat/RV
    (c) Occupation of RV during reconstruction or major renovation of single-family residence after a natural disaster, as long as the zoning permit is valid
    (d) Display of a single vehicle for sale at any one time, not to exceed 2 per year
    (e) Placement of movable storage units in accordance with Section 7.15 G of this ordinance.
    (f) Tree houses, play structures, trampoline, or other residential recreation structures that are not permanently affixed to the ground
    (g) Hobbies & recreational activities of a non-commercial nature, which do not fall within the definition of a "home occupation"
    (h) Garden statuary, garden structures (excluding storage buildings), and art may be located in the back area, provided the footprint of such features does not exceed the permit threshold of fifty square feet in area.
    (i) Agricultural activities for the personal use of the resident or in support of a licensed home occupation including but not limited to growing herbs, fruits and vegetables .
2. The following list provides examples of expected accessory uses in non-residential zoning districts. This list is not exhaustive. When determining whether an activity is an allowed accessory use, the definition of accessory use and the impact of the activity shall be considered. Items not included on this list may be allowed as combination used in compliance with *Section 6.1(C).*
    (a) Special events permitted pursuant to a separate permitting process established in the Town Code.
    (b) Parking of storage containers units in accordance with Section 7.15 G of this ordinance
    (c) Outdoor dining or customer seating when provided in a manner and location that is not assigned or required for another purpose.

3. Commercial Displays. Commercial displays shall only be permissible when a principle structure is present. Commercial displays shall only be located within the side and rear yards.

6.1.1 TABLE OF PERMITTED USES

Use	RA	R-20	R-15	R-15M	R-10	B-3	B-2	B-1	MC	LIW	IW	HS CD	MX D
ABC Stores						S	S	S					S
Accessory Buildings	P	P	P	P	P				P			P	P
Accessory Uses, Customary												P	
Aerobics Dance and Karate Class								P					P
Agricultural Uses	P	P	P	P	P								
Alterations, Clothing and Shoes								P					P
Amphitheatre													S
Antique and Gift Stores						S	S	PS					P
Appliance Stores						S	S	PS					P
Armories for Meeting, Military Training						S	S	S					
Art Gallery, Studio								P					P
Assisted Living Residence												P	P
Auction House						S	S	S					
Automobile Sales and Rental						S	S	PS					
Bakery and Delicatessen						P	P	P					P
Bakery Plant											P		
Banks, Financial Institutions						P	P	P					P
Barber and Beauty Shops						P	P	P					P
Bars, Night Clubs								S					S
Bed and Breakfast								S					S
Billboards/Off-Premise Signs											S		
Billiard Rooms						S	S	S					
Boat Building											P		
Boat Sales, Service and Repair						S	P	S					S
Boat Storage Yard										S			
Bona Fide Farm	P	P	P	P	P								
Bowling Alleys								P					P
Breweries, Microbreweries								P		P			S
Business and Vocational School						P							P
Cabinet and Woodworking Shop								S		P	P		
Campground/Camp, Seasonal									P				
Cemeteries	S											P	
Community Center/Civic Center						S	S	S				S	S
Clinic and Medical Laboratory						S	S	S					S
Clothing Manufacturing										P			
Colleges and Related Facilities								S					P
Commercial Marine Facility							S						

6.1.1 TABLE OF PERMITTED USES													
Use	RA	R-20	R-15	R-15M	R-10	B-3	B-2	B-1	MC	LIW	IW	HS CD	MX D
Commercial Displays						P	P	P		P	P		
Commercial Printing and Publishing						P							
Condominium	S	S						S				S	
Contractor's Plant or Storage Yard										P	P		
Convenience Food Stores without gasoline sales						P	P	P					P
Convenience Food Stores with gasoline sales						P	P	P					S
Day Care, Adults								S				P	P
Day Care, Child	S	S						S					P
Dock, Private	P	P	P	P	P				P				P
Docks and Piers, Commercial	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	P	P	P	P	P	P		S
Drystack Boat Storage facility							S						S
Dwelling, Duplex	S	S	S	S	S							S	P
Dwelling, Efficiency Unit	S	S	S	S	S							S	P
Dwelling, Live Work					S	S	S	S					S
Dwelling, Manufactured				P					P				
Dwelling, Multiplex	S	S	S	S	S							S	P
Dwelling, Recreation Vehicle									P				
Dwelling, Single Family	P	P	P	P	P							P	P
Dwelling, Townhome, Rowhome	S	S	S	S	S							S	P
Dwelling, Triplex, Quad	S	S	S	S	S							P	P
Electrical Repair Shop							P			P			
Electronic Machines, Equip. and Supp.										P	P		
Exterminating Services											S		
Fabricating Shops										S	S		
Family Care Home	S							S					P
Farm Stand	P				P								
Fiberglass Manufacturing										S			
Fish Camps									P				
Fishing Pier							P						P
Fishing Ranch							P						
Funeral Home, Mortuary, Crematorium	S							S		S	S		
Furniture Manufacturing Plants										S	P		

General Business and Retail Sales						P	P	P					P
General Warehousing										P	P		
General Wholesaling										P	P		
Golf Course								S					
Government Uses											S		

6.1.1 TABLE OF PERMITTED USES

Use	RA	R-20	R-15	R-15M	R-10	B-3	B-2	B-1	MC	LIW	IW	HS CD	MXD
Grocery Stores						S	S	S					P
Group Care Facility	S							S					P
Group Retirement Facility												P	P
Home Center						P							P
Home Occupations	S	S	S	S	S								S
Hospitals						S	S	S					P
Hotel and Motel						S	S	S					S
Industrial Assembly, Sales and Repair										P	P		
Junk Yard													
Kennels	S							S					
Lab: Research, Med., Dental, Optical						S	S	S		S			S
Laundry, Dry Cleaning, Laundromats						S	S	S					S
Lawn, Garden, Greenhouses, Nurseries						S	S	S			P		P
Library	S							P					P
Licensed Professional Therapists						P	P	P					P
Club Facilities, Public and Private	S											P	P
Maintenance Buildings												P	
Mobile Home Park									P				
Marine Equipment Store							P						P
Marine Railway Yard							P						
Marine Research Facility							P						S
Mini-Storage facilities								S		P	P		
Motor Vehicle, RV Repair Garage								S		P			S
Museum								P					P
Non-Profit Educational Cooperative						P		P					
Nursing/Convalescent Homes												P	P
Package Treatment Plant	S	S	S	S	S	S	S	S	S	S	S	S	S
Parking Deck, Automobile						S	S	S					S
Parsonage/Caretaker's Quarters	S	S	S	S	S							S	
Prefabricated Cargo Shipping Containers						P	P	P					

Public Sewer/Water Supply System/ Substation								S		S	S		S
Offices						P	P	P					P
Offices, Banking and Financial						P	P	P					P
Offices, Contractor's										P	P		
Offices, Facilities: Municipal, Fire, Police	S	S	S	S	S	P	S	S	S				P
Offices, Government										S			P
Offices, Health Services						P	P	P					P
Offices, Professional						P	P	P					
Open Air Markets								s					
Overnight Camping Vehicle Storage									S	S			
Parks and Playgrounds, Private	P	P	P	P	P				S				S
Parks and Playgrounds, Public	P	P	P	P	P								S
Personal Service Establishments						P							

6.1.1 TABLE OF PERMITTED USES

Use	RA	R-20	R-15	R-15M	R-10	B-3	B-2	B-1	MC	LIW	IW	HS CD	MX D
Pet Grooming Business						P		P					P
Plastic Manufacturing										S			
Production and Repair Facilities						P							
Production, Sale: Leather Products											P		
Production, Sale: Lumber, Wood Products											P		
Production, Sale: Pottery, Porcelain											P		
Production, Sale: Stone, Glass, Concrete										S	P		
Planned Unit Development (PUD)	S	S	S					S					
Radio, TV Broadcasting Studios								P					P
Recreational Facility, Indoor						P		P					S
Recreational Facility, Outdoor								P					S
Religious Complexes	S	S						S					P
Restaurant, Without drive-thru windows						S	S	S					P
Restaurants, With drive-thru windows						S		S					S
Schools, Public and Private	S	P	P					S				P	P
Seafood Handling, Storage, Sales Facilities							S			S	S		
Seasonal Camps												P	
Sexually Oriented Businesses								S					
Shooting Range, Indoor						S				S			
Signs: Manufacturing and Assembly								S		P			
Skating Rinks						P	P	P					
Spa and Health Club						P	P	P					P

Swimming Pool - Private	P	P	P	P	P				P				S
Tennis Court - Private	P	P	P	P	P				P				S
Textile Manufacturing											S		
Theaters						P	P	P					P
Trailer (Utility/Hauling) Sales and Rental								S			P		
Transportation Facilities, Private										P			S
Transportation Facilities, Public													S
Veterinary Clinic						P							S
Wireless Telecommunication Towers								S		S	S		
Yacht and Boat Club							S						P

6.2 USE-SPECIFIC STANDARDS

A. BARS, NIGHTCLUBS

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use: Screening and buffering shall comply as necessary with this ordinance.

(a) A required plan shall be submitted identifying the location of existing structures on the property within one thousand (1,000) linear feet of exterior wall (s) of the regulated use, and the properties (with zoning district noted) within two thousand (2,000) linear feet of each property line of the regulated use from the property line of the adjacent use (adjacent properties).

(b) Hours of operation shall not continue past 2:00 AM and noise levels shall comply with Chapter 9, Division II of the Cedar Point Code of Ordinances as applicable.

(c) Servers of food and beverage shall at all times be fully clothed.

(d) The nightclub or bar shall be limited to one (1) wall sign per premise; the sign shall be internally lighted, and shall be allowed maximum size of twenty (20) square feet.

(e) All County and State regulations shall be adhered to by the nightclub or bar, in regards to serving of food and/or alcohol.

B. BED AND BREAKFAST

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) Each unit within a bed and breakfast establishment shall have direct access to a hall or exterior door.

(b) The applicant shall provide evidence that the Fire Marshal has reviewed and approved the fire protection plan.

(c) If a state, county or city license or permit is required to operate such a facility, the standards necessary to qualify for such a permit have been met; no Zoning Permit or Certificate of Occupancy will be issued until the Town receives proof that all State, county, and/or other local permits have been approved.

(d) All parking areas shall be paved and buffered from abutting residential districts or uses in accordance with this ordinance.

(e) No independent sleeping, cooking, or bathing facilities shall be located on the

property. All activities associated with a Bed and Breakfast shall be conducted out of the principal building.

C. CABINET AND WOODWORKING SHOP

1. STANDARDS OF EVALUATION

The following specific standards shall be used in to evaluate an application for approval of this use:

(a) No outside storage of materials shall be allowed.

D. CEMETERY

1. STANDARDS OF EVALUATION

The following specific standards shall be used in deciding upon an application for approval of this use:

(a) Proof that the requirements of the N.C.G.S. Chapter 65 the standards of the North Carolina Cemetery Commission shall be met, to the extent that they apply to the applicant entity.

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

(c) The proposed landscaping shall provide visual obstruction from adjacent property through new planting or existing vegetation. At a minimum, this visual obstruction shall be equal to a Type A buffer.

(d) The proposed landscaping shall show the balance between providing an aesthetically pleasing arrangement of plots, amenities, driveways and landscaping and providing a facility that is safe for visitation and long-term protection of grave markers.

(e) The minimum lot size for any cemetery not co-locating on a parcel occupied by the place of worship of the applicant faith-based organization shall meet the minimum lot size for the zoning district in which it is located.

(f) The site for a proposed cemetery for a faith-based organization shall be located within one-half mile of the site the applicant organization uses as its place of worship.

(g) The site shall have frontage on Town or State maintained road.

(h) All interior vehicular access and maneuvering space shall be improved with pervious, semi-pervious, or impervious surfaces that can be maintained to provide safe and consistent passage.

(i) No interments shall take place within twenty-five (25) feet of any residential lot line, or ten (10) feet from a non-residential lot line.

(j) The applicant has provided information sufficient to the permit issuing authority regarding guarantee of perpetual maintenance and the length of time the proposed cemetery will have lots available for sale.

E. COLLEGE AND RELATED FACILITIES

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval:

(a) Minimum lot size ten (10) acres.

(b) All principal and accessory buildings shall be forty (40) feet from all property lines.

(c) All required parking areas shall be buffered and screened in accordance with the buffering requirements of this ordinance.

F. DAY CARE, CHILD

1. STANDARDS OF EVALUATION

Child day care centers, including pre-schools, shall be licensed as a childcare center by the State,

shall comply with all state regulations for childcare centers, and must satisfy the following standards:

(a) Proof of application for a license from the State of North Carolina. A copy of the approved license shall be provided to the Town Administrator within 30 days of the Certificate of Occupancy for any approved Child Day Care requiring a license. No unconditional Certificate of Occupancy may be issued until a copy of all required state licenses have been issued.

(b) If not located in a stand-alone building, a child day care center shall be located on the first floor of a principal structure, and must be segregated and secured (including the restrooms) from the remaining portion of the building in which it is located.

(c) Outdoor recreation areas associated with the facility must meet the State's requirement for the licensing level being sought for the facility, and must satisfy the fencing and buffering requirements with particular attention paid to protecting the privacy of adjacent property owners and to maintaining the character of a residential neighborhood.

(d) Pick-up and drop-off areas shall be separate from the drive-aisle. The pick-up and drop-off areas shall be designed so that no child is required to cross the parking lot or any other traffic areas.

G. COMMERCIAL MARINE FACILITY

1. STANDARDS OF EVALUATION

The following specific standards shall be used in deciding upon an application for approval of uses in this category:

(a) Activities and possible uses on the property shall be limited to wet boat storage, boat service and repairs, boat accessory sales, boat trailer parking, automobile parking areas, launching ramp, piers, boat petroleum service areas, and general retail facilities for the purpose of serving marine clientele.

(b) Minimum lot area for a commercial marine facility shall be thirty thousand (30,000) square feet.

(c) Minimum lot width for a commercial marine facility shall be one hundred (100) feet.

(d) Minimum lot depth for a commercial marine facility shall be three hundred (300) feet.

(e) All principal and accessory structures shall be setback from the side property lines at least thirty (30) feet. All principal and accessory structures shall be setback from the front property line at least fifty (50) feet.

(f) Maximum impervious surface area, including all building and parking areas, shall be limited to fifty-five (55) percent of the total lot area.

H. COMMUNITY SHOPPING CENTER

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) The following uses shall be enclosed within a building: office, institutional, recreation, retail, service and wholesale, and are permitted by right. Manufacturing and repair shall be allowed if related to the principal uses, but any such use involving manufacturing or repair shall be a maximum of five thousand (5,000) square feet in floor area.

I. DAY CARE, FAMILY

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) The facility shall adhere to the minimum requirements of and be licensed by the North

Carolina Department of Human Resources, Division of Facility Services.

(b) All principal and accessory buildings shall be located at least twenty-five (25) feet from all property lines.

J. DRYSTACK BOAT STORAGE

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) All principal and accessory buildings shall be no closer than thirty (30) feet from any property line. In cases where a property line is bordered by water, the applicable CAMA setback shall apply.

(b) All proposed uses and required parking areas shall be buffered and screened in accordance with the buffering requirements of this ordinance.

K. DWELLING, EFFICIENCY UNIT

1 An efficiency apartment must be located within a principal single family dwelling, and must meet the following criteria:

(a) The efficiency apartment must be architecturally integrated with the principal structure. Connection by breezeway, walkway, or other artificial means does not satisfy this requirement.

(b) The lot fronts on a public street;

(c) One of the units is occupied by the property owner;

(d) The efficiency apartment shall contain no more than twenty-five (25) percent of the gross floor area of the total dwelling; and

(e) The efficiency apartment must be inaccessible, or able to be made inaccessible from the principal dwelling unit.

(f) Other situations with more than one dwelling unit within a single structure are considered attached dwellings under this ordinance.

L. DWELLING, MULTIFAMILY

1. CATEGORIES OF ATTACHED DWELLINGS

This Ordinance hereby establishes the following attached dwelling use types:

(a) Duplex

(b) Multiplex

(c) Townhome, Rowhome

(d) Triplex, Quad

2. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) Site plans show compliance with the dimensional requirements for the applicable Zoning District in which the attached dwelling unit is being developed.

i. All proposed duplexes, triplexes, and quads shall be required to have an additional four thousand five hundred (4,500) square feet of required lot area to be developed.

ii. For multiplex developments, each proposed independent dwelling unit over five (5) units shall have an additional ten thousand (10,000) square feet of lot area to support each additional proposed dwelling unit.

(b) For developments consisting of five (5) or more dwelling units, vehicular ingress and egress and exits for the development are directly off a public road(s), which is either a collector or arterial street, and meet the driveway standards in *Section 7.10, DRIVEWAY CONNECTIONS Connections*. Up to four (4) dwelling units are permissible on any public street.

(c) The interior roads and parking areas shall meet the required specifications included in *Section 7.15, STREETS AND ROADS~~RAODS~~.*

(d) The project is served or is proposed to be served by public water and sewer systems. The proposed distribution systems have been sized to meet the demands of the project, including fire protection.

(e) The Fire Marshal has reviewed and approved in writing the fire protection plan, including the location of fire hydrants.

(f) The utility plan has been reviewed and approved by the Town Administrator and the State has approved the extension of the Town's systems. All utilities, including electrical, telephone, and cable television, are to be installed underground.

(g) The lighting plan meets or exceeds the specification of this Ordinance.

(h) The grading, storm drainage, and soil erosion and sedimentation control plans have been reviewed and approved by the Town Administrator, or consulting Engineer, as applicable.

(i) The pedestrian circulation minimizes the conflicts between pedestrians and motor vehicles, and it provides convenient access to all common areas and facilities and to public streets.

(j) The proposed trash container and recycling system meets the requirements of this Ordinance and the policies of the Town of Cedar Point.

(k) The site plan shows the phasing, if any, of the development, including any phases to be developed later. If a development is to be built in phases, and complete plans for the succeeding phases are not available, then the requirements in this section shall apply to each phase as if it were a separate and discrete development. Further, when a development is built in phases and includes improvements that are designed to relate to, benefit, or be used by the entire development, (such as swimming pools or tennis courts), the developer shall submit a schedule for completion of these improvements. All common implements necessary to comply with the requirements of this Ordinance for each phase must be completed before occupancy of a subsequent phase may commence.

(l) An improvement must be scheduled and completed before the final phase of the development is begun. The permit-issuing authority may, in special cases (exclusive of financial hardship) authorize the applicant to commence the intended use of the property or to occupy any building before these improvements are installed provided that a performance bond or other security satisfactory as to amount certified by the applicant's engineer to be 125% of the estimated cost to complete the work, and in a form to the Town Attorney, is furnished.

M. DWELLING, LIVE WORK

1. STANDARDS FOR EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) The residence and the business shall be attached either by a common wall or a breeze way or located in one (1) central building.

(b) Parking for the residence must be separate from the business use

(c) The structure shall adhere to all applicable development regulations associated with commercial development within each district, and

(d) Accessory buildings shall be allowed in accordance with all applicable setback regulations associated with each zoning district.

N. DWELLING, MOBILE HOME

1. INTENT

It is the intent of this section to address the specific criteria that must be met to place a mobile home or manufactured home within the zoning jurisdiction of the Town of Cedar Point. The terms "manufactured home and "mobile home" do not include a "recreational vehicle".

2. MOBILE OR MANUFACTURED HOME REQUIREMENTS

Homes that do not meet the criteria set forth shall not be located within the Town's jurisdiction.

(a) Dwelling, Mobile Home

Before issuing a Zoning Compliance Permit for a mobile home, the Town Administrator shall certify that the home meets the following standards:

i. The pitch of the home's roof shall have a minimum vertical rise of two (2) feet for each twelve (12) feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in residential construction. The minimum width shall be fourteen (14) feet.

ii. All transportation lights and towing apparatus shall be removed before a Certificate of Occupancy is issued.

iii. Manufactured homes must be underpinned. This underpinning may consist of vinyl or masonite materials manufactured for that purpose OR the home may be placed on a permanent foundation of masonry materials such as brick, block, or stone.

iv. The exterior siding shall consist of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

v. A deck or a porch of at least thirty-six (36) square feet in size must be located on the front of the home and must include steps.

vi. A legal non-conforming mobile home may be replaced with a similar or higher or better mobile home, provided the replacement is permitted within 180 days of the removal of the existing mobile home. The replacement mobile home may not increase any dimensional non-conformity enjoyed by the existing mobile home.

vii. Any Mobile Home older than ten (10) years in age shall be required to submit a completed home inspection report, sealed by a State Licensed inspector, certifying the structural soundness of the home prior to making application for a setup permit and shall submit a completed home inspection report, sealed by a State Licensed inspector, certifying the structural soundness of the home prior to receiving any certificate of occupation.

(b) Dwelling, Mobile Home, Legal Nonconforming

Before issuing a Zoning Compliance Permit for a legal nonconforming mobile home, the Town Administrator or his/her designee shall certify the following:
Single or doublewide manufactured housing unit existing in the Town of Cedar Point prior to the effective date of this ordinance that meets the U.S. Department of Housing and Urban Development manufactured home construction standards, but does not meet the town's appearance criteria. Such manufactured homes may only be relocated to currently conforming mobile home parks that existed prior to the effective date of this ordinance. At that time, the home must be underpinned with either masonry materials or other products manufactured expressly for the purpose of underpinning and installed in accordance with the manufacturer's specifications.

O. FAMILY CARE HOMES

1. All Family Care Homes shall be licensed as required by the state and shall meet all applicable state requirements.
    (a) All principal and accessory buildings shall be located at least twenty-five (25) feet from all property lines.
    (b) A mandatory buffer yard shall be installed to a minimum of ten (10) feet in width that will contain local indigenous plant life that shall achieve a minimum height of five (5) feet within three (3) years.

P. FUNERAL HOME, MORTUARY, CREMATORIUM

1. All funeral homes, mortuaries, and crematoriums shall comply with the following conditions:
    (a) All principal and accessory buildings shall be located at least thirty (30) feet from all property lines.
    (b) A mandatory Type A buffer shall be installed.

Q. GASOLINE SALES

1. STANDARDS OF EVALUATION

    The following specific standards shall be used to evaluate application for the approval of this use:
    (a) The proposed hours of operation shall be consistent with the predominant uses in the area.
    (b) Subject to the limitation established in *Section 7.10, DRIVEWAY CONNECTIONS, of this ordinance*, lots with frontage on more than one street shall be limited to one (1) driveway cut on the higher classified street. Additional driveway cut(s), if any, shall be on streets of lower classification. Driveways permits shall be approved by NCDOT for access to state roads.

    Site plan shall show anticipated traffic pattern for vehicles entering, exiting and on the site, including pump islands, stacking space, additional parking spaces, and sidewalks and other pedestrian areas, with emphasis on vehicular and pedestrian safety;
    (c) Sites shall not have direct driveway connections to streets classified as arterial or collector.
    (d) Changeable message signs (1) will be permitted to display the price of fuel only and (2) may not exceed fifty (50) percent of the sign area for the use.
    (e) Gas station canopies shall be designed to be an integral part of the station architecture, and canopy lighting shall comply with the lighting requirements of *Section 7.12, LIGHTING*.
    (f) Gas station pumps shall be placed at the rear of the lot when the use is combined with a convenience store, and the convenience store is located near the main street to shield the utilitarian pump canopy and highlight the building
    (g) Vehicle Accommodation/Pump Island
        i. Within the B-1 ~~Highway Business (HB)~~ District ~~and Industrial (i) District~~, motor vehicle stations may accommodate a maximum of twelve (12) vehicles at one time.
        ii. In all other districts where the use is permitted, a maximum of eight (8) vehicles may be served at one time.

R. GOLF COURSE

1. Includes all related customary accessory uses, including, but not limited to:

(a) Clubhouse, driving range, and snack bars.

2. STANDARDS OF EVALUATION

(a) The following specific standards shall be used to evaluate an application for approval of this use:

i. All principal and accessory building shall be located at least forty (40) feet from all property lines.

ii. A detailed soil erosion and sedimentation control plan shall be reviewed and approved by the State of North Carolina Department of Water Quality prior to the review of the special use application by the Town of Cedar Point.

iii. All proposed golf course holes shall be located at least twenty (20) feet from all property lines.

iv. The minimum lot area for an eighteen (18) hole golf course shall be one hundred seventy (170) acres. The minimum lot area for a nine (9) hole golf course shall be eighty (80) acres.

S. GROUP CARE FACILITY

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) Operators shall have licensing permit or letter stating that such licensing permit will be issued from the Carteret County Department of Social Services, Adult Home Specialist or such other County, State, and/or Federal agency as may have licensing jurisdiction over the operator.

(b) The lot area shall conform to the minimum required for the zoning district and be sufficient to contain all required components.

(c) All principal and accessory buildings shall be located at least twenty-five (25) feet from all property lines.

(d) The structure proposed shall have the appearance of a residential building, and any proposed structural alterations shall be of such a nature as to preserve the residential character of the building. The proposed changes or improvements of the property shall be in keeping with the residential nature of the area.

(e) A mandatory Type A buffer shall be installed.

(f) The proposed use shall not be located within five hundred (500) feet of another existing group care facility.

T. HOME CENTER

1. ALL HOME CENTERS SHALL COMPLY WITH THE FOLLOWING CONDITIONS:

(a) All materials and products must be enclosed and roofed on all sides.

(b) If a building is used in connection with such center, the building may serve as a buffer on one (1) or more sides.

(c) The home center shall be fenced on all sides not abutting a building to a height of six (6) feet. Such construction shall be done in a manner so that there is no visible display of the materials and other matter stored within such center from the outside of such center.

(d) A buffer zone of at least two and one-half (2 1/2) feet from all property lines to all buildings, parking areas and drives shall be maintained.

U. HOME OCCUPATION

1. ALL HOME OCCUPATIONS SHALL COMPLY WITH THE FOLLOWING CONDITIONS:

(a) A home occupation is located within a dwelling unit or in an accessory building on the same lot or parcel as the dwelling unit. A home occupation involving the growing or

raising of an agricultural product may also be allowed so long as the area outside of a structure involved in raising the product sold meets the area requirement below.

(b) The area occupied by the home occupation shall not exceed 25 percent of the heated floor area of the dwelling unit to which it is accessory.

(c) The principal person or persons providing the business or service must reside in the dwelling on the premises.

(d) The operator of the home occupation may not employ more than two (2) non-resident persons on the premises at any one time.

(e) The home occupation shall not cause or result in any change in the external appearance of the existing dwelling and structures on the property, beyond changes that are suitable to and allowed on structures not being used for a home occupation.

(f) All vehicles used in connection with the home occupation shall be of a size, type customary for residential use, and shall be located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the surrounding area. No more than two (2) business-related vehicles, those being vehicles marked with the business name, may be parked at the site of the home occupation. In no instance shall any vehicle with a gross vehicle weight exceeding 5,000 pounds be parked, stored, or otherwise maintained at the site of a home occupation.

(g) Home occupations shall not result in regular and on-going business-related vehicular traffic, defined as more than five (5) vehicle per hour on average, to the home where located.

(h) There shall be sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself.

(i) Home occupation shall be permitted to have one (1) on premise sign not exceeding four (4) feet in height and not exceeding six (6) square feet in sign area.

(j) The site of the home occupation shall not contain any outdoor display or storage of goods that are to be sold or items not commonly found at similar residences.

(k) The home occupation shall not create adverse impacts on health, safety, or comfort of customers or neighboring residents, which can be detected by the normal senses off the premises. Such impacts shall include but not be limited to fire or explosive hazards; interference with electronic communication; loud, raucous or disturbing noise; dust; odors; fumes; glare; or vibration.

(l) The home occupation shall not create or exhibit an increase in noise, traffic, or parking demands markedly beyond that normally associated with a residential use.

(m) In considering home occupation permits for residents located directly along Highway 24, the board will include in its consideration existing business uses, noise, and traffic within the vicinity of the residence.

(n) Once properly permitted, a home occupation may offer equipment or boat slip rentals, so long as the property has appropriate access to a public waterway, sufficient off street parking, and if the traffic produced will not go markedly beyond the traffic of the nearby properties.

(o) Home occupations shall operate, in its normal course of business, during business hours (8:00 a.m. to 6:00 p.m.)

2. The following uses are not permitted as home occupations in residential zoning districts except as a legal non- conforming use:

(a) Boarding of domesticated animals.
(b) Dealerships for firearms or motor vehicles
(c) Motor vehicle maintenance, service, or repair.
(d) Any use that will routinely generate five or more customers within one hour.
(e) Any use that is only permitted with a Special Use Permit if otherwise located.

V. HOTEL, MOTEL

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) Customary accessory commercial uses may be located on premises provided they are within the principal structure with a minimum of fifty (50) units. Entry to any and all commercial accessory uses shall be from the interior of the structure and no outdoor display of merchandise shall be allowed.
(b) All principal and accessory structures shall be setback a minimum forty (40) feet from all property lines.
(c) All required parking areas shall be buffered and screened in accordance with the regulations within this ordinance.
(d) All dumpster areas shall be screened.

W. KENNELS

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) The minimum distance from a residential property line shall be fifty (50) feet if all portions of the facility in which animals are housed are wholly enclosed within a building.
(b) Any kennel or runway that is not wholly enclosed within a building shall be encircled by a security fence at least six (6) feet in height.
(c) The applicant shall provide written evidence of compliance with all applicable state standards, including copies of all state permits and approvals necessary to operate the kennel.
(d) The proposed landscaping shall provide visual obstruction equal to a Type B buffer from adjacent property through new planting or existing vegetation.
(e) The facility shall be air-conditioned.

X. LIBRARY

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for the approval of this use:

(a) All such uses shall be located on a lot that is at a minimum one (1) acre in area
(b) All proposed uses and required parking areas shall be buffered and screened in accordance with the buffering requirements of this ordinance.
(c) All principal and accessory buildings shall be located at a minimum of thirty (30) feet from all property lines.

Y. MANUFACTURED HOME PARK/MOBILE HOME PARK/RECREATION VEHICLE (RV) PARK

1. See Chapter 5 of this Ordinance

Z. MEETING AND EVENT CENTER

1. STANDARDS FOR EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) The proposed uses must occupy a structure that exists on the applicant parcel before application is submitted.

(b) The proposed use of the site shall not require a structural expansion or addition of more than fifty (50) percent of the gross floor area existing in the building to be used at the time of application and planned to be retained for use.

(c) If a state, county or town license or permit is required to operate such a facility, the standards necessary to qualify for such a permit have been, or can be met; no building permit or certificate of occupancy for such use shall be issued until all other state, county and/or local permits required for the use are submitted to the Town.

(d) If live or recorded music is allowed at events, no amplified sound and/or music shall be allowed outdoors after 9 PM or indoors after 12:00 AM (midnight).

(e) The proposed methods of soundproofing the buildings must be sufficient to reduce noise from the interior of the building. The noise level at the property line shall not exceed forty-five (45) decibels.

(f) Outdoor areas planned to be used in connection with the event center shall be located and buffered in such a manner as to protect neighboring uses from light, noise, and loss of privacy.

AA. MOTOR VEHICLE, RV REPAIR GARAGE

1. STANDARDS OF EVALUATION

The following specific standards shall be used in evaluating an application for the approval of this use:

(a) The proposed hours of operation shall be consistent with the predominant uses in the area.

(b) Lots with frontage on more than one street shall be limited to one (1) driveway cut on the higher classified street. Additional driveway cut(s), if any, shall be on streets of lower classification. Driveways permits shall be approved by NCDOT for access to state roads.

(c) Service bay doors shall not be located on the building façade facing the public right-of-way or on pedestrian- oriented façades.

(d) Areas for storage of vehicles awaiting repair shall be buffered from the public right-of-way.

(e) No outside display or storage of retail goods is permitted unless approved as a combination use.

(f) Applicants shall provide noise level documentation for equipment use outdoors on site.

(g) The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.

BB. OFFICES, FACILITIES: MUNICIPAL, FIRE, POLICE

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for the approval of this use:

(a) All such uses shall be located on a lot that is at a minimum one (1) acre in area.

(b) All proposed uses and required parking areas shall be buffered and screened in accordance with the buffering requirements of this ordinance.

(c) All principal and accessory buildings shall be located at a minimum of thirty (30) feet from all property lines.

(d) No open storage is allowed.

EE. OPEN AIR MARKETS

The following specific standards shall be used to evaluate a Special Use Permit application for the approval of this use:

1. All such uses shall be located on a lot that is a minimum of one acre in area.
2. Applications shall include a site plan as required per Section 3.3 of this Ordinance with the following additional information:
    (a) Proposed Days and Hours of operation
    (b) The location and means, such as stalls, tables, or structures, by which merchandise is to be displayed
    (c) Structure Types (permanent/temporary) and location
    (d) Restroom Facilities (permanent/temporary)
    (e) Proposed Plan for garbage collection and disposal.
3. Any Alcohol sales or services, including potential vendors, must be specified in an application.
4. All signage and flags promoting the market shall be restricted to the parcel at which the market is located. There shall be no off-site signage permitted.
5. There shall, at no time, be more than two (2) temporary signs/flags on the site of the market. Temporary signage/flags shall be placed no closer than ten (10) feet from any property line and shall not be placed within a public/private right-of-way. Temporary signage/flags shall be place no closer than twenty (20) feet apart. Temporary signs & flags shall be removed at the end of each vending day. Temporary signs/flags used as part of a vendor's booth/site shall not be restricted as long as it remains part of the vendor's booth/site.
6. There shall be at least one (1) Garbage/Solid Waste unit provided for the market operators and vendors to use. Such unit must be screened from public view. Each vendor shall have an available trash receptacle as part of their vendor booth/site.
7. All trash receptacles shall be emptied regularly so as to not overflow, and litter and debris shall not be allowed to accumulate.
8. Merchandise or other materials stored outdoors while the market is not open for business shall be secured in a way as not to cause damage or danger to property.

9. Temporary Structures for vendors are permissible only after it has been certified compliant with all applicable local, state, and federal codes. All tents shall be taken down and secured at the end of the day, except for tents that have been approved by the building inspector as being compliant with regulations pertaining to tents as long as they remain compliant.

10. Restroom facilities (permanent/temporary) shall be provided at a rate of 1 per 25 required parking spaces. At least one required facility shall be certified handicap accessible.
11. Operations shall be restricted to the time between 6:00 AM and 9:00 PM, unless otherwise specified in the special use permit.
12. The Cedar Point Board of Commissioners may impose any other condition it deems necessary or appropriate to minimize noise or other potential adverse effects upon neighboring areas.

FF. PLANNED UNIT DEVELOPMENT (PUD)

1. STANDARDS OF EVALUATION

    The following specific standards shall be used to evaluate an application for approval of these uses:

    (a) All Planned Unit Developments (PUD) shall adhere to the development requirements outlined in Chapter 7 of this Ordinance.

GG. PRIVATE STABLES

1. STANDARDS OF EVALUATION

    The following specific standards shall be used to evaluate an application for approval of these uses:

    (a) All horses shall be confined within a fenced enclosure suitably engineered and constructed

for such use. The fence shall be sturdily constructed with new material and maintained in good repair and finish.

(b) All stables shall be located fifty (50) feet from all property lines.

HH. PRIVATE TRANSPORTATION FACILITIES

No person or organization shall operate a Private Transportation Facility (taxicab/limo/designated driver service operating center) within the zoning jurisdiction of Cedar Point without the following requirements being met prior to the start of operation:

1. The Operating Center is located within the LIW (Light Industrial Wholesale) Zoning District.
2. The Town must receive evidence that all drivers are at least eighteen (18) years of age and have a current N.C. driver's license validly issued by the state department of motor vehicles and of the type required for the transport of persons for hire. Each driver applicant must submit a current, certified copy of his driver license and driving record obtained from the N.C. Department of Motor Vehicles with the application.
3. The Town must receive evidence of liability insurance by an insurance company approved by the state insurance commissioner in at least the minimum limits as set forth in N.C.G.S. Chapter 20 covering the driver and all vehicles to be used by the driver in the taxicab/limo/designated driver business.
4. The Town shall receive a description of all motor vehicles to be driven by the driver in the taxicab/limo/designated driver service business to include the make and model of the vehicles, serial numbers, license tag numbers, state registration numbers, and other information as required by the town.
5. The Town shall receive evidence that all vehicles have a current and validly issued safety inspection certificate as required by N.C.G.S. Chapter 20.
6. The Town shall receive satisfactory evidence that all drivers are in good physical and mental health and is physically and mentally capable of operating a motor vehicle. The Town may require a physical examination report from a licensed physician, obtained at the expense of the applicant, completed within thirty (30) days prior to the date of the application.
7. The Town shall receive satisfactory evidence that the applicant possesses good moral character. A background investigation, including a complete computerized criminal history records check, to be conducted by the Carteret County Sheriff Department at the applicant's expense, through the use of DCI to access the North Carolina State Bureau of Investigation and the Federal Bureau of investigation criminal history files, as well as the North Carolina Administrative Office of the Courts (AOC), will be conducted. All information obtained from such DCI access to criminal history information will be held confidential and will not be disseminated outside the Town files.
8. The Town shall require that each driver submit a fingerprint exemplar to the Town that will be forwarded to the SBI. The SBI will forward the card to the FBI in order to complete a national criminal history check. Any fee required will be paid by the applicant.
9. The Town Administrator may refuse to issue a permit for an Operating Center or may revoke a permit already issued to the owner/operator of an Operating Center if any of the drivers are:
    (a) convicted of a felony in this state or convicted of any offense in another state which would have been a felony if committed in the State of North Carolina; or
    (b) in violation of any federal or state law relating to use, possession, or sale of intoxicating liquors or narcotic or barbiturate drugs; or
    (c) addicted to or habitually use intoxicating liquors or narcotic or barbiturate drugs; or
    (d) in violation of any federal or state law relating to prostitution; or
    (e) not a Legal citizen of the United States; or
    (f) habitual violators of traffic laws or ordinances; or

(g) give any false information to the Town, or the owner/operator fails to notify the town of any changes, amendments, or revisions in the information given in the application for a permit. The Town shall be notified within seven (7) days following any acts, events, or occurrences that would cause an amendment or change to be made in the information given on the driver's application.

II. PUBLIC AND PRIVATE SCHOOLS

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of these uses:

(a) All such uses shall be located on a lot that is at a minimum one (1) acre in area

(b) All proposed uses and required parking areas shall be buffered and screened in accordance with the buffering requirements of this ordinance.

(c) All principal and accessory buildings shall be located at a minimum of thirty (30) feet from all property lines.

JJ. PUBLIC PARKS AND PLAYGROUNDS

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of these uses:

(a) Lighting shall be prohibited except for minimum lighting that may be required for security purposes.

KK. PUBLIC UTILITY FACILITIES

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of these uses:

(a) The proposed landscaping shall provide a visual buffer equal to a Type B buffer from adjacent property through new plantings or existing vegetation.

(b) The proposed site meets the needs of the applicant and minimizes potential adverse impacts on the adjacent property.

(c) All required state agency approvals have been obtained, and the proposed operators have been or will be certified by the appropriate state agency; no certificate of occupancy shall be issued until proof of such certification has been submitted to the Town.

(d) Lighting shall be prohibited except for minimum lighting that may be required for security purposes.

(e) No open storage is allowed.

(f) The architectural elevations of the buildings show that the buildings preserve the character of the surrounding area to the maximum extent practicable.

(g) All structures except public water storage facilities are set back at least one hundred (100) feet from the property line. Elevated public water storage facilities shall observe a setback equal to the greater of the height of the storage facility or the setback required in the district where the facility is located.

(h) All electric power, telephone, gas distribution, and cable television lines serving new development and/or new structures shall run underground from the point of connection with the existing main lines to all structures on the lot served by those lines. Such lines shall be placed underground in accordance with the specifications and policies of the respective utility companies.

(i) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby properties, such

utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden, expense or unnecessary duplication of service.

(j) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

LL. RELIGIOUS COMPLEXES

1. INCLUDES CUSTOMARY ACCESSORY USES:
   (a) Parsonage, religious facility sponsored day care, educational buildings, accessory buildings, and recreational uses.
2. STANDARDS OF EVALUATION
   The following specific standards shall be used to evaluate an application for approval of uses in this category:
   (a) All structures within the religious complex shall be separated by a minimum of twenty (20) feet.
   (b) No structure shall be located closer than twenty-five (25) feet to a common property line, nor closer than thirty (30) feet to an abutting street or highway right-of-way.
   (c) All parking areas shall be buffered from abutting residential districts or uses in accordance with this ordinance.

MM. RECREATIONAL FACILITY, OUTDOOR

1. STANDARDS OF EVALUATION
   The following specific standards shall be used to evaluate an application for approval of uses in this category:
   (a) Applicants shall indicate the maximum building capacity and the expected peak usage times including capacities and peak usage for all outdoor facilities, fields, or courts included as elements of the facility.
   (b) Shared parking with adjacent uses that have different peak usage times is encouraged.
   (c) Outdoor facilities, fields, and courts located within one thousand (1000) feet of residential uses shall not be used after 10:00 PM unless specifically authorized at the time of permit approval.
   (d) The public use portion of outdoor facilities, fields, and courts shall observe a fifty (50) foot setback from property lines when adjacent to property in residential use.
   (e) The setback requirement stated above is a presumptive setback, and may be expanded or reduced based on the particular circumstances of each application. In determining the appropriate setback for a particular situation, the Town must consider the impacts of noise, lights, and loss of privacy on neighboring properties. Mitigation measures may include, but are not limited to grade change, landscaping, fencing, operational modifications, and details.
   (f) In reviewing applications, the Town will balance the need for security and the impact of the proposed use on the surrounding neighborhood.

NN. RESTAURANT

1. STANDARDS OF EVALUATION
   The following specific standards shall be used to evaluate an application for approval of uses in this category:
   (a) Outdoor eating areas shall be buffered, screened, landscaped, or otherwise located to

protect patrons and adjacent properties from adverse impacts, and to provide a pleasant experience to the patrons.

(b) Outdoor play or recreation areas shall be located on a pedestrian façade.

(c) Drive-up windows and ground-mounted menu boards shall not be located on the primary or pedestrian oriented façades.

(d) Stacking space for drive-up areas shall not inhibit traffic flow on the site.

2. A restaurant may qualify for an on premise fortified wine or mixed beverages permit or an on-premise malt beverage permit under N.C.G.S. § 18B-900 if there is an inside dining area set aside for the service of meals that contains seating for at least 36 persons. Food shall be available at all times that alcoholic beverages are being served. (This is a matter of state law and is subject to change only by the North Carolina General Assembly and/or ABC Commission.)

3. Although a facility need not necessarily possess all of the following characteristics to qualify as a restaurant, each is typical of a bona fide restaurant. The local authority making recommendations to the ABC Commission may consider the extent to which a facility possesses these characteristics in deciding whether to recommend issuing, suspension or revocation of the permits listed above:

(a) The facility has a printed menu listing full meals with substantial entrees;

(b) The facility has complete cooking and refrigeration equipment;

(c) The majority of the food sold is prepared in the facility's own kitchen and prepackaged foods comprise only an incidental amount of the sales;

(d) There are separate service and kitchen staff;

(e) Seating for dining customers is primarily at tables and/or booths; and

(f) A relatively minor portion of the premises is devoted to activities unrelated to the service and consumption of food

OO. SEXUALLY ORIENTED BUSINESS

1. Sexually Oriented Businesses, as defined in N.C.G.S. § 14-202.10, are recognized as having certain serious objectionable operational characteristics and a deleterious effect on adjacent areas. Special regulation of these uses is necessary to ensure that their adverse effects do not contribute to degradation or decline of surrounding areas. The primary intent of the following standards is to prevent negative impacts on residential areas and particular uses.

2. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of sexually oriented businesses:

(a) No building to be occupied as a Sexually Oriented Businesses shall be established within five hundred (500) feet of a residentially zoned lot line.

(b) No building to be occupied as a Sexually Oriented Businesses shall be located within a five hundred (500) foot radius of another adult use.

(c) No Sexually Oriented Businesses shall be located less than one thousand (1,000) feet from any religious complex, school, park, playground, library, or other areas where large numbers of minors regularly travel or congregate.

(d) No Sexually Oriented Businesses shall be located less than one thousand (1,000) feet from any lot or parcel on which a public playground, public swimming pool, public estuarine access, or public park is located.

(e) Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the

part of the premises where a sexually oriented business is conducted to the nearest portion of a building or structure of a use listed above.

(f) Signs are allowed, as permitted by the ordinance, but may not include promotional displays, flashing lights, or photographs, silhouettes, drawings, or pictorial representations of any manner depicting sexual activity, themes or nudity.

(g) All windows, doors, openings, entries, etc. for all adult uses shall be located, covered, buffered, or otherwise treated so that views into the interior of the establishment are not possible from any public or semi-public area, street or way.

(h) The proposed methods of soundproofing the buildings must be sufficient to reduce noise from the interior of the building. The noise level at the property line shall not exceed forty-five (45) decibels.

(i) There must be sufficient number of employees to maintain the safe and orderly operation of the establishment.

PP. STORAGE FACILITIES

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of this use:

(a) Storage areas shall be located behind buildings or screened from adjacent property and public right-of way with a solid screen at least six (6) feet in height.

(b) Solid screens may be one or a combination of fences, walls, vegetation, topographical change, or berms. Fences and walls must be opaque and vegetation must be kept in healthy condition.

(c) No item defined by this Ordinance or in the Town Code as "solid waste" may be stored on a site.

(d) No hazardous materials may be stored unless specifically authorized by the State Fire Code and necessary for operations in the ordinary course of business for the principle use on the site.

(e) All outside storage areas shall be clearly indicated on submitted site plans and storage must be confined to designated areas.

QQ. VETERINARY CLINIC

1. STANDARDS OF EVALUATION

The following specific standards shall be used to evaluate an application for approval of uses in this category:

(a) All pens and kennels shall be in an enclosed, air-conditioned building.

(b) No boarding of animals shall be allowed on-site unless in conjunction with a conforming and permitted kennel.

(c) If a veterinary clinic operates in conjunction with a kennel, the operation shall be located on a lot that is at a minimum one (1) acre in area.

(d) All principal and accessory buildings shall be located at a minimum of thirty (30) feet from all property lines.

(e) No unenclosed runs shall be allowed at a veterinary clinic.