



# Stem Zoning Ordinance

Town of Stem  
North Carolina

September 21, 2016  
(Supersedes Stem Zoning Ordinance – 04/21/2014)



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## **Article 1. General and Legal Provisions**

### **1.01 Authority**

This Ordinance is adopted by the Town of Stem pursuant to authority granted by the North Carolina General Statutes 160A, Article 19, to promote the public health safety, morals, and general welfare of the residents of the Town.

### **1.02 Title**

This ordinance shall be known as the “Zoning Ordinance of the Town of Stem, North Carolina” and may be cited as “this Ordinance”.

### **1.03 Purpose**

This ordinance was prepared in accordance with the Stem Comprehensive Plan as defined in this ordinance. These regulations are made with consideration for the character of a particular district and its suitability for particular uses; and with a view to preserving property values and promoting compatibility between land uses. Its purpose is to promote the public health, safety, morals, and welfare, and to:

- a) Provide adequate light and air;
- b) Prevent overcrowding of land;
- c) Avoid undue concentration of population
- d) Lessen street congestion
- e) Secure public safety from fire, panic, and dangers;
- f) Facilitate efficient and adequate provision of transportation, water, sewer, schools, parks, and other public services

### **1.04 Jurisdiction**

Unless exempted by state law or this ordinance, this ordinance shall apply to lands and structures within the Town of Stem corporate limits and any extraterritorial jurisdiction (ETJ) boundary established pursuant to state law.

### **1.05 Applicability**

Except as provided under Section 1.11 (Existing Permits and Developments), no person may use or occupy any land or building or authorize the use or occupancy of land or building under his or her control except in compliance with this ordinance.

### **1.06 Effective Date**

The provisions in this ordinance were adopted on \_\_\_\_ \_\_\_\_, 20\_\_ and became effective on \_\_\_\_ \_\_\_\_, 20\_\_.

### **1.07 Statutes of Limitation**

A cause of action challenging the validity of this ordinance or amendment shall be brought within the time period prescribed by G.S. 160A-364.1.

### **1.08 Consistency with Comprehensive Plan**

This ordinance was made in accordance with the Town of Stem Comprehensive Plan. The comprehensive plan includes any official document the town adopts to manage any aspect of development. The provisions of this ordinance were found to be consistent with one or more of the following:

- 
- a) The policies of the adopted comprehensive development plan;
  - b) An official future land use map;
  - c) A comprehensive transportation plan;
  - d) Any adopted small area plans;
  - e) The purpose statements in these or other development regulations

### **1.09 Minimum Requirements**

- a) The provisions of this ordinance are the minimum requirements necessary to carry out the ordinance's stated purpose and intent.
- b) In addition to the requirements of this ordinance, all uses and development must comply with other applicable Town, state, and federal regulations.
- c) All references to other Town, state, or federal regulations are for informational purposes only and do not constitute a complete list of such regulations.

### **1.10 Conflicting Provisions**

#### **(A) Conflicts with State or Federal Law**

If the provisions of this ordinance are inconsistent with those of state or federal law, the more restrictive provision will control to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

#### **(B) Conflicts with Other Town Regulations**

If the provisions of this ordinance are inconsistent with one another or conflict with provisions in other ordinances of the Town, the more restrictive provision will control. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

#### **(C) Conflicts with Private Agreements and Covenants**

This development ordinance is not intended to interfere with or annul any easement, covenant, deed restriction or other agreement between private parties. But, if this ordinance imposes a greater restriction than imposed by a private agreement, this ordinance will control. Nothing in this ordinance shall be construed to render private agreements not contrary to this ordinance invalid.

### **1.11 Existing Permits and Developments**

#### **(A) Purpose**

The purpose of this section is to protect the rights of property owners who have lawfully established, and continuously maintained in a lawful manner, a use prior to the adoption of this ordinance or amendment that otherwise renders such use unlawful. A nonconforming use or structure that was recognized prior to the adoption of this ordinance shall continue to operate under the provision of law under it was recognized so long as the nonconforming use or structure is not in violation of such provision of law, the adoption of this ordinance notwithstanding. Nothing in this ordinance prohibits the voluntary compliance with any future ordinance, regulation, or incentive.

#### **(B) Vested Rights**

- (1) Generally:

- 
- (a) No amendment to this ordinance or the zoning map shall be applicable without the consent of the landowner with regard to buildings and uses for which a vested right have been established and remains valid.
  - (b) A vested right shall not preclude the application of overlay zoning that imposes additional requirements that do not affect the allowable types or intensity of use, or that are general and applicable to all property subject to town regulations. Otherwise, new or amended regulations shall become effective upon expiration or termination of the vested right in accordance with this Ordinance.
- (2) Establishment: A vested right shall be established as follows:
- (a) Common Law: A quasi-judicial finding by the Board of Commissioners or a judicial finding that substantial expenditures of resources (time, labor, money) based on good faith reliance upon having received a valid permit to precede with the development has been incurred by the property owner.
  - (b) Building Permit: A valid building permit issued prior to the effective date of the ordinance effecting the change, so long as the permit remains valid and unexpired pursuant to GS 160A-418.
  - (c) Statutory Vested Right: A “Site-specific Development Plan” approved in accordance with GS 160-385.1.
- (3) Term of a Vested Right:
- (a) A statutory vested right shall remain vested for 2 years from the date of approval. Prior to the end of the initial vesting period, the landowner may ask the Town Board for a one-time extension. The total vesting period shall not exceed five years.
  - (b) A statutory vested right is not a personal right, but shall attach to and run with the subject property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such right while in effect.
- (4) Termination: A statutory vested right shall terminate:
- (a) At the end of the applicable vesting period with respect to buildings, the uses for which no valid building permit applications have been filed.
  - (b) With the written consent of the effected landowner.
  - (c) Upon finding by the Town Board, by ordinance after a public notice and hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if not corrected, would pose serious threat to the public health, safety, or welfare if the project were to proceed as contemplated in the site specific development plan.
  - (d) Upon compensating the affected landowner for all costs, expenses, and other losses incurred by the landowner, including, but not limiting 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, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such actions;

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- (e) Upon findings by the Town Board, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or;
  - (f) Upon the enactment or promulgation of a State or Federal law that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.
- (5) Declaration upon Voluntary Annexation: A petition for annexation filed with the town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.
- (6) Limitations: Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160A-385.1.
- (7) Repeal: If G.S. 160A-385.1 is repealed, the statutory vested rights provisions shall be deemed repealed and no longer effective.
- (C) Nonconformities
- (1) Generally
- (a) Applicability: This section applies to any nonconformity that was legally established and operated on or before these regulations or amendments were adopted.
  - (b) Continuation: On the effective date of this Ordinance, a nonconformity that was lawfully established, operated, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this Article.
  - (c) Discontinuance: If a nonconformity is discontinued for 180 consecutive days or for 18 months in any three-year period, any future use of the premises shall conform with this ordinance. Discontinuance shall terminate the right to continue the nonconformity.
- (2) Nonconforming Uses
- (a) Continuance: The lawful use of any structure existing as of the effective date of this ordinance may be continued and extended throughout the structure. However, any alterations or additions to the structure shall conform to existing law.
  - (b) Enlargement: A conforming structure in which a nonconforming use is operated shall not be enlarged or extended except as required by law or ordinance.
  - (c) Change to Conforming Use: Any nonconforming use may be changed to a use conforming to the regulations established for the district in which it is located. Thereafter, any future use shall conform to these regulations.

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- (d) Changes to Current Use: Any changes to a nonconforming use shall bring the use more into conformance with regulations of this ordinance. No change shall increase in the minimum number of off-street parking and loading spaces required.
- (3) Nonconforming Lots: A substandard lot shall comply with the yard, buffer, setback, and bulk regulations of the zoning district, which the lot is located.
  - (4) Nonconforming Structures
    - (a) Continuance of Nonconforming Structures: Subject to the limitations in this section, any nonconforming structure may be occupied, operated, and maintained in a state of good repair.
    - (b) Enlargement: A nonconforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with the provisions of this ordinance established for structures in the district in which the nonconforming structure is located. Such enlargement shall also be subject to all other applicable ordinances.
  - (5) Nonconforming Sites as to Development Standards
    - (a) Purpose: The ordinance establishes various development standards for individual lots. Consequently, many development sites do not meet current requirements for parking lot standards, landscaping, and other design specifications. This section requires that such nonconforming sites be brought into conformance with the site development standards prescribed by this ordinance.
    - (b) Authority to Continue: Any lawfully existing nonconforming site may be continued so long as it remains otherwise lawful subject to this section.
    - (c) Extension: A conforming use located on a nonconforming site shall not be expanded until the site is brought into conformance with the provisions of this ordinance. However, single-family residential structures that are located on a legally nonconforming site with respect to required yards, areas, or height may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms with the provisions of this ordinance.
    - (d) Relocations: No structure shall be relocated to a nonconforming site until the site is brought into conformance with the provisions of this ordinance.
    - (e) Change in Use: No existing structure located on a nonconforming site shall be changed from one use to another use until the site is brought into conformance with this ordinance.
  - (6) Damage or Destruction
    - (a) The right to operate and maintain any nonconformity, except single-family dwellings, shall terminate whenever the nonconforming structure is damaged from any cause, and the cost of repairing such damage exceeds 25 percent of the replacement cost of such structure on the date of such damage.

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- (b) A nonconforming single-family dwelling unit that is destroyed or damaged more than 25 percent of the replacement cost may be rebuilt, if a building permit is issued within 1 year of the date of such damage or destruction. The Zoning Administrator shall require the submission of sufficient evidence to verify the date of damage or destruction.
- (7) Termination: Any of the following acts shall immediately terminate a nonconformity:
- (a) Changing a nonconformity to conform to this ordinance;
  - (b) Discontinuance of a nonconformity for 180 consecutive days or for 18 months in any three-year period.

### **1.12 Severability**

The sections, paragraphs, sentences, phrases, and clauses of this ordinance are severable. If any part of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, such declaration shall not affect the remaining parts since the same would have been enacted without the incorporation of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

### **1.13 Repeal of Conflicting Ordinance**

Any part of an ordinance of the Town of Stem that are in conflict or inconsistent with this ordinance are repealed or superseded to the extent necessary to give this ordinance full force and effect.

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## Article 2. Administrative Authorities

### 2.01 Board of Commissioners

(A) Generally

The governing board of the Town of Stem may delegate administrative authority when unassigned by this Ordinance.

(B) Specific Powers

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

- (1) To adopt and amend the comprehensive plan;
- (2) To adopt and amend this ordinance and the official zoning map;
- (3) To designate a planning board and board of adjustment and appoint its members;
- (4) To review and approve applications for a Special Use Permit
- (5) To approve or deny site specific development plans; and
- (6) To take other actions that are reasonable and in the public interest.

### 2.02 Planning Board

The planning board established by Town ordinance shall have the following powers and duties:

- a) To review and advise on proposed text and map amendments
- b) To review and advise on applications for a Special Use Permit
- c) To review and approve applications for a Conditional Use Permit
- d) To function as the board of adjustment
- e) Other duties assigned by the Board of Commissioners.

### 2.03 Board of Adjustment

(A) Establishment

The board of adjustment is hereby established pursuant to GS 160A-388 and this section.

(B) Membership, Term, Vacancies

(1) **Members:** The members of the planning board shall constitute the membership of the board of adjustment. The board of adjustment shall be composed of at least 5 members. If the town exercises extraterritorial powers in accordance with state law, proportional ETJ representation shall be provided pursuant to GS 160A-362. Alternates may be appointed to serve in the absence of a regular member. ETJ representation shall be appointed by the County Board of Commissioners pursuant to state law.

(2) **Vacancies:** Appointments to fill vacancies shall be for the unexpired term of the vacated seat on the board.

(C) Powers and Duties

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The board of adjustment shall have the following duties:

- 1) To review and decide applications for administrative appeals
- 2) To review and decide applications for variances
- 3) To perform other duties as directed by the Board of Commissioners

(D) Meetings and Record

- (1) Meetings: The board of adjustment shall meet as needed to review an application that requires its review. However, the board of adjustment shall meet within 45 days after a sufficient application is filed with the Zoning Administrator.
- (2) Quorum: The presence of four members of the board of adjustment shall constitute a quorum. No official action shall occur without a quorum.
- (3) Voting: A four-fifth majority vote of qualified board members is required to rule in favor of applicant variance. Only vacant seats and members with an impermissible conflict of interest may be disqualified from voting.
- (4) Records: The board of adjustment shall keep accurate minutes of its meetings and prepare written report of its findings and conclusions, which shall be a public record.

(E) Rules of Procedure

The board of adjustment may adopt rules of procedures for the conduct of its business consistent with state law and this ordinance.

## **2.04 Zoning Administrator**

A zoning administrator shall be appointed by the Board of Commissioners to administer and enforce this ordinance. The zoning administrator may delegate duties to subordinates or designees. Any officer charged with administering or enforcing any part of this ordinance is referred to as the zoning administrator.

## **2.05 Table of Reviewing Authority**

The following table is a summary of the roles each administrative authority have in the zoning decision-making process:



Procedure	Zoning Administrator	Planning Board	Board of Commissioners	Board of Adjustment
Zoning Permit	Administrative			Appeal
Certificate of Compliance	Administrative			Appeal
Enforcement	Administrative			Appeal
Interpretation	Administrative			Appeal
Administrative Appeal				Quasi-judicial
Variance				Quasi-judicial*
Zoning Map Interpretation	Advisory			Quasi-judicial
Conditional Use Permit	Advisory	Quasi-judicial		
Special Use Permit	Advisory	Advisory	Quasi-judicial	
Site Specific Development Plan	Advisory		Quasi-judicial	
Text Amendment	Advisory	Advisory	Legislative	
Official Zoning Map (Rezoning)	Advisory	Advisory	Legislative	



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## Article 3. Administrative Procedures

### 3.01 Purpose

The purpose of this chapter is to establish procedures for filing and processing applications for zoning approval. This article is formatted to allow users to quickly and efficiently ascertain the steps involved in obtaining zoning approval—from initiating the review process, to reviewing application for compliance with substantive standards, to taking final action on the application, and finally, to appealing the final action. The intent is to ensure all proposed uses will comply with this ordinance.

### 3.02 Initiation

#### (A) Application Submission

Applicants may initiate zoning review by filing an application with the Zoning Administrator. Applications shall be submitted on a form and in the number required by the Town. Applications shall include the following information:

- (1) Contact information: Name, address, and phone number of applicant, property owner, and authorized agent as applicable.
- (2) Proof of authority to file: A deed, valid lease, contract, option, written statement or other documentation to show standing to file an application pursuant to GS160A-393(D) and this ordinance.
- (3) Application Fees: Full payment of application fees as established by the Board of Commissioners.
- (4) Property location: A map, address, PIN, or other descriptions that will allow the Town to accurately ascertain the affected property location.
- (5) Site Plan: A plat, map, or drawing showing the existing and proposed location, setback, and dimensions of land uses, structures, vehicular use areas, and other impervious surfaces, buffers and open space, and other site details needed to show compliance with this ordinance.
- (6) Additional information: Additional information specified on the application form or required by the zoning administrator to show compliance with this ordinance.

#### (B) Application Fees:

The Board of Commissioners shall adopt application fees sufficient to offset the costs of processing and reviewing the application.

#### (C) Application Sufficiency:

- (1) Review for Sufficiency: The zoning administrator shall review the application to determine compliance with the submission requirements specific to the needs specific to the application. The administrator shall notify the applicant of sufficiency within 5 working days.
- (2) Findings: If the zoning administrator finds that the application is sufficient, copies shall be referred to the appropriate reviewing authorities. If the application is not sufficient, the zoning administrator shall inform the applicant of the deficiencies.

- (3) **Review Deadline:** Application review deadlines shall begin when the application is found to be sufficient, not on the date of submission. Deadlines may be extended upon mutual agreement by the applicant and the decision-making authority. Deadlines that fall on a nonworking day recognized by the town shall extend to the next working day.
- (4) **Appeal:** The applicant may file an appeal of the zoning administrator’s decision to the board of adjustment within 30 days after the decision is made.

**3.03 Technical Review**

After an application is found to be sufficient, the Zoning Administrator shall review it for compliance with the technical standards of this ordinance. The administrator may consult with the town attorney, engineer, or other competent town, county, state authority or professional as needed to determine compliance. If the application requires a public hearing, a written advisory report of the findings shall be presented at the hearing.

**3.04 Notice of Hearings**

(A) Notice Requirements:

A public notice shall precede all public hearings pursuant to this section. However, if inconsistency exists with state statute, the state statute governs. The following table establishes notice requirements for public review hearings:

Procedure	Published Notice	Mailed Notice	Posted Notice
Administrative Appeal		✓	✓
Variance		✓	✓
Text Amendment	✓	✓	
Official Zoning Map (Rezoning)	✓	✓	✓
Conditional Use District		✓	✓
Special Use Permit		✓	✓
Site specific development plan		✓	✓

(B) Specific Notice Requirements:

- (1) **Published notice:** A notice shall be published in an official newspaper of general circulation in the affected area for 2 successive weeks. The initial notice shall appear not more than 25 days or less than 10 days before the date of the hearing. The next notice shall appear during the next calendar week.
- (2) **Posted notice:** If required, a water-proofed sign shall be posted in a location clearly visible and legible from the street, either on the lot or an adjacent right-of-way. The sign shall be posted at least 10 days before the date of the public hearing and shall remain posted up to the date of the hearing.

(3) Mailed notice: A mailed notice shall be sent to the applicant and as specified for the type of application. Applicant's notice shall be sent certified mail. Name and address of property owners shall be determined from the latest county tax listing. Notice shall be deposited in the mail at least 10 days but not more than 25 days before the date of the public hearing.

(C) Contents of Notice:

The notice shall inform interested parties of the date, time, location, and subject of the application and shall state at least the following:

(1) Published or Mailed Notice:

- Reasonable identification of subject property (map, description, PIN, etc.)
- A general description of the proposed action
- The current and proposed zoning district, if applicable
- Time, date, location of hearing
- Rights to attend or speak at hearing
- Name and phone number of person to contact for more information

(2) Posted Notice

- Type of application;
- The time, date and location of the public hearing; and
- A phone number to contact the Town for more information.

(D) Certification:

At the hearing, the Zoning Administrator shall certify that the required notices were given and such certificate will be deemed conclusive in the absence of fraud.

(E) Action Consistent with Notice

After the public hearing, the reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, as proposed or with conditions, or denial of the application.

### **3.05 Legislative Hearings**

(A) Purpose:

Legislative hearings provide the public with an opportunity to be heard consistent with the procedures established by the Board of Commissioners and consistent with this section and state law. Legislative hearings are required to establish new policies or regulations.

(B) Applicability

This section applies specifically to amendments to this ordinance and the Official Zoning Map.

(C) Required hearings:

The Board of Commissioners shall hold a public hearing before taking final action on any amendment. Notice shall be provided pursuant to Section 3.04.

(D) Conduct of Hearing:

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Any person may appear and comment in accordance with this ordinance and state law. The Board of Commissioners may adopt additional rules to conduct hearings that do not conflict with this ordinance and state law.

(E) Record of Proceedings

The presiding body shall take minutes of the proceedings by any appropriate means consistent with state law. The record shall include a summary of findings and conclusions. The Zoning Administrator shall make such records available for public review. The Town Board may set fees to recover the cost of duplicating records.

(F) Conflict of Interest:

No member of the Board of Commissioners or any advisory board shall vote on a zoning amendment where the outcome of the matter is reasonably likely to have a direct, substantial, and readily identifiable financial impact on that member.

### **3.06 Quasi-judicial Hearings**

(A) Purpose

Quasi-judicial hearings are held to protect individual due process in the decision-making process. Quasi-judicial proceedings shall protect affected parties right to fair and impartial decision-making. These decisions involve two key elements: (1) the findings of facts regarding specific applications; and the exercise of judgment in applying the standards of this ordinance.

(B) Applicability:

This section applies to use permits, variances, administrative appeals, and other quasi-judicial decisions defined by this ordinance or state law.

(C) Required hearing

The decision-making body shall conduct a quasi-judicial hearing to receive and review evidence relevant to making the appropriate findings. Notice shall be provided pursuant to Section 3.04.

(D) Conduct of Hearing:

Hearings shall be conducted in a “court-like” fashion. The decision-making body shall act as a panel of judges. Any competent person may present evidence relevant to the findings required in this ordinance. Each speaker shall present testimony under oath and is subject to cross-examination. The decision-making body may adopt additional rules to conduct its proceedings consistent with this ordinance and state law.

(E) Findings:

All findings shall be based on facts supported by relevant, substantial, and competent evidence presented at the hearing. Evidence not presented at the public hearing shall not be considered. A written statement of findings shall be adopted with all quasi-judicial decisions.

(F) Conflict of Interest:

No member of a board exercising a quasi-judicial function shall participate or vote on any matter that would violate a person’s right to an impartial decision-maker. Impermissible conflicts of interest apply to members with:

1. A fixed opinion held prior to the meeting that is not susceptible to change;

2. Undisclosed ex parte communication
3. A close familial, business, or other association with an affected party; or
4. A financial interest in the outcome of the case

### **3.07 Official Record**

The Zoning Administrator shall retain copies of the application, plans, testimony, correspondence, advisory reports, written minutes, findings and conclusions, permits and certificates, and other associated documentation on file as part of the official records. The records shall be available for public inspection.

### **3.08 Use Permits**

(A) Applicability

This section applies to applications for conditional and special use permits. Special use permits shall be decided by the Town Board. Conditional use permits shall be decided by the Planning Board. The process for reviewing and approving conditional and special use shall be identical unless otherwise stated.

(B) Initiation

Application must be filed by the property owner or with the written consent of the property owner pursuant to Section 3.02.

(C) Technical Review:

The technical report from the Zoning Administrator shall include a written finding of facts established by the documentation submitted with the application.

(D) Planning Board Recommendation for Special Use Permit

The planning board shall conduct an advisory review of a Special Use Permit application, and file a written recommendation of its findings to the Board of Commissioners within 30 days from the date of application referral.

(E) Hearing and Notice:

The decision-making body shall conduct a quasi-judicial public hearing pursuant to Section 3.06. Notice shall be sent to the property owner, adjacent property owners, and the applicant.

(F) Action by Decision-Making Body:

The decision-making body shall vote to approve or deny the application within 45 days after the close of the public hearing. The concurring vote of a simple majority of qualified board members is required to approve a use permit. Vacant seats and disqualified members are not considered members of the board for voting purposes. The decision-making body may establish its own findings of fact, or adopt the Zoning Administrator's or planning board's in the case of a special use permit.

(G) Required Findings:

A use permit shall be approved if the decision-making authority finds:

- (1) The proposed development complies with the applicable regulations of this ordinance.
- (2) The development is compatible with the general character of the area.

(3) The development will not adversely affect the value of nearby or adjoining properties.

(4) The use and development will not be detrimental to public health, safety, and welfare.

(H) Consideration:

In making its decision, the reviewing authority should, at a minimum consider:

(1) The type and intensity of development in relation to adjacent properties.

(2) The buffer and screening provided between adjacent land uses.

(3) The capacity of existing infrastructure to serve the proposed use and existing uses.

(4) The impact proposed use will have on traffic congestion in the vicinity of the proposed development.

(5) The adverse impact of noise, odor, dust, and other nuisance on neighbors.

(6) The impact the proposed use will have on the orderly development of adjacent areas.

(I) Conditions for Approval:

In approving a use permit, the decision-making authority may impose standards, conditions, or requirements, in addition to or that supersedes standards established elsewhere in this ordinance, if it deems necessary to protect the public health, safety, and welfare, including but not limited to:

(1) Provision of public improvements to adequately serve the development

(2) Restrictions on the hours of operation.

(3) Dedication or reservation of land for public use.

(4) Provisions for restrictive covenants or easements.

(5) Special dimensional requirements on lots and structures.

(6) Require recordation in register of deeds.

(J) Effects of Approval:

A use permit shall authorize the applicant to pursue any permit or certificate required to develop and use the property as approved. If the development is not complete within 2 years after the date of approval, the permit shall lapse. The applicant may ask the decision-making authority for an extension of up to 5 years provided at least 20% of total project cost has been expended. Any period of inactivity of one year or more after the initial 2 years shall cause the permit to lapse.

(K) Judicial Appeal

Appeals shall be filed within 30 days from the date the decision is mailed to the applicant with the Granville County Superior Court. Any aggrieved person with standing as defined under GS 160A-393(D) may file a judicial appeal.

### 3.09 Zoning Permits

(A) Purpose



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The purpose of a zoning permit is to certify that a proposed use and development will comply with the regulations of this ordinance and any quasi-judicial approval.

(B) Applicability:

No building permit or certificate of compliance shall be issued for any structure or use unless a zoning permit is issued by the Zoning Administrator. No change in use shall be permitted without a zoning permit.

(C) Initiation

An application shall be filed with the written consent of the property owner pursuant to Section 3.02(A).

(D) Review and Action:

(1) Review: The zoning administrator shall review the application to determine if it complies fully with the regulations of this ordinance and conditions of any quasi-judicial decision, if applicable.

(2) Action: Within 10 days after a sufficient application is filed, the zoning administrator shall approve or deny the permit and notify the applicant in writing. If the zoning permit is denied, the notice shall explain why.

(3) Finding: A zoning permit shall be issued upon finding that the proposed use and development comply with all applicable provisions of this ordinance and any quasi-judicial approval.

(E) Effect of Approval:

A valid permit authorizes the applicant to pursue a building permit and other approvals required to develop and establish the proposed use. A zoning permit shall be valid for 180 days after the date of approval. A zoning permit does not exempt the applicant from the requirements of other local, state, or federal permitting authorities.

### **3.10 Variances**

(A) Purpose:

A variance may be considered when the literal interpretation or application of this ordinance creates an unnecessary and unique hardship in making a reasonable use of the property.

(B) Initiation:

Application shall be filed with the written consent of the property owner pursuant to Section 3.02 after a finding that the proposed development fails to comply fully with the requirements of this ordinance.

(C) Hearing and Notice:

A quasi-judicial public hearing shall be conducted by the board of adjustment pursuant to Section 3.06. A mailed notice shall be sent to the applicant, property owner, and the adjacent property owners.

(D) Action by Board of Adjustment:

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The Board of Adjustment shall vote to approve or deny the variance within 30 days after the close of the public hearing. The concurring vote of a four-fifth majority of qualified members of the board is required to approve a variance. Vacant seats and disqualified members are not considered members of the board if no qualified alternates are available.

(E) Required Findings:

A variance shall be issued if the board of adjustment finds all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(F) Conditions:

The Board of Adjustment may impose reasonable conditions to ensure compliance with the required findings above. A variance approved on condition of approval by the EMC or other authority pursuant to state law shall not take effect until and unless said approval is granted.

(G) Environmental Management Commission (Watershed)

If the board of adjustment rules in favor of a major variance to the watershed regulations as defined in this ordinance, the Zoning Administrator shall send the record of the hearing, including the board's decision and conditions, to the Environmental Management Commission for its review. If the Commission finds that the application is for a major variance and denies the variance, the variance shall be denied.

(H) Effects of Approval:

A variance issued in accordance with this section shall authorize the zoning administrator to issue a zoning permit if all other standards and conditions are satisfied.

(I) Judicial Appeal

Appeal shall be filed within 30 days from the date of the decision with the Granville County Superior Court. Any aggrieved person with standing as defined under GS 160A-393(D) may file a judicial appeal.

### **3.11 Certificate of Compliance**

(A) Purpose:

No land or structure shall be occupied or used until the zoning administrator certifies that the use is developed and established in accordance with the approved permit.

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(B) Application and Review:

The zoning permit application shall serve as the application for a certificate of compliance. The applicant shall notify the zoning administrator when the site is ready for inspection. The zoning administrator shall inspect the site for compliance with the required findings.

(C) Findings

The zoning administrator shall approve the application upon finding that the use and development comply with the approved permit and plans and the applicable conditions of a quasi-judicial approval. Otherwise, the zoning administrator shall notify the applicant in writing why the application was denied.

(D) Appeal

An aggrieved person shall have 30 days from the date of the decision to file an administrative appeal pursuant to Section 3.12.

### **3.12 Administrative Appeal**

(A) Initiation:

Any aggrieved person with standing may file an appeal with the town clerk pursuant to Section 3.02. Appeals shall be filed within 30 days from the date of the action alleged an error.

(B) Official Records:

Upon receipt of a sufficient application, the zoning administrator shall refer the application and any pertinent record to the board of adjustment.

(C) Review Hearing:

Within 30 days after the application is filed, the board of adjustment shall conduct a quasi-judicial public hearing pursuant to Section 3.06. A mailed notice shall be sent to the applicant and property owner pursuant to Section 3.04(B).

(D) Action and Findings:

- (1) Action: Within 30 days after the hearing, the board of adjustment shall vote to reverse or modify the decision or to affirm the decision. A concurring vote of a simple majority of board members is required to reverse or modify the decision of the zoning administrator. Vacant seats and disqualified members are not considered members of the board for voting purposes.
- (2) Findings: The board of adjustment shall reverse or modify the decision if the applicant shows that the zoning administrator erred in the interpretation or application of this ordinance. At which time, the board shall exercise the duties of the zoning administrator and make the decision that ought to be made.

(E) Judicial Appeal:

Appeal shall be filed within 30 days from the date of the decision with the Granville County Superior Court. Only a person with standing as defined under GS 160A-393(D) may file a judicial appeal.

### **3.13 Amendments**

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(A) Applicability:

This section shall apply to any proposed amendment to the text of this ordinance or the official zoning map.

(B) Initiation:

Any property owner may propose a text amendment to the Town Board or Planning Board, but only the Town Board and Planning Board may initiate a text amendment review. A proposed map amendment may be initiated by the Town Board or Planning Board, or by application filed with the written consent of the affected property owner pursuant Section 3.02.

(C) Planning Board Referral:

All applications shall be referred to the Planning Board at the next regular meeting held at least 15 days after the application was deemed sufficient.

(D) Planning Board Recommendation:

(1) Within 30 days of referral, the planning board shall consider the application and send its written recommendation to the Board of Commissioners, advising on whether the proposed amendment is consistent with the comprehensive plan and on other matters relevant to the required findings established under paragraph (H) of this section.

(2) If the planning boards written recommendation is not submitted within the allotted 30 days, the Board of Commissioners may to hold the required public hearing and take final action without a planning board recommendation. The Commissioners are not bound by the recommendation of the planning board.

(E) Public Hearing and Notice:

Before taking final action on the application, the Board of Commissioners shall conduct a legislative public hearing pursuant to Section 3.05. For map amendments, a mailed notice shall be sent to the owners of adjacent properties within 100 feet of the affected parcels in addition to the applicant and affected property owner.

(F) Action by Town Board:

After the hearing, the Board of Commissioners may approve the amendment as proposed or modified, deny the amendment, or refer the amendment back to the planning board for further study. The concurring vote of a majority of the members of the board is required to approve the amendment. If a valid protest petition is filed pursuant to GS 160A-385, a three-fourth majority vote is required to approve a map amendment.

(G) Statement on Plan Consistency:

Every decision shall include a statement specifying whether the action taken is consistent with the comprehensive plan and why the action is reasonable and in the public interest. The Town Board may adopt the planning board's statement or prepare its own.

(H) Considerations:

The Town Board may approve any amendment it finds to be reasonable and in the public interest. While no one factor controls, the Town Board shall consider at least the following criteria in making its decision.

- (1) **Plan Consistency:** The proposed amendment is consistent with the goals and objectives of the comprehensive plan as described under Section 1.08.
  - (2) **Compatibility:** The proposed amendment is compatible with the general character of development on adjacent properties.
  - (3) **Public Services:** Adequate public infrastructure is available to provide an acceptable level of service to existing and potential uses.
  - (4) **Adverse Impacts:** The rezoning will not have an unreasonable adverse impact on adjacent properties in terms of property value, noise, traffic, pollution, etc.
  - (5) **Public Need:** An identified public need such as affordable housing, economic development, or public improvements will be addressed by the amendment.
  - (6) **Suitability:** The affected property is generally suitable for the type of uses that could be permitted in the proposed zoning district.
- (I) **Effect of Amendment:**  
An amendment authorizes the applicant to pursue development approvals consistent with the standards and procedures established in this ordinance as amended. However, no amendment shall be applicable or enforceable without the consent of the landowner of affected property with a valid zoning vested right.
- (J) **Judicial Appeal:**  
Appeals shall be filed with the Granville Superior Court pursuant to GS 160A-364.1. A cause of action challenging the validity of this ordinance or amendment shall be brought within the time period prescribed by G.S. 160A-364.1.

### **3.14 Site Specific Development Plan**

- (A) **Applicability:**  
This section applies to landowners seeking to establish a zoning statutory vested right as described under Section 1.11(B)(3).
- (B) **Establishment:**  
A statutory vested right may be established for a zoning permit upon Town Board approval of a site specific development plan after a quasi-judicial public hearing held pursuant to Section 3.06. A Use Permit shall be regarded as a site specific development plan upon approval.
- (C) **Findings and Conditions:**  
A site specific development plan may be approved upon such terms and conditions the Board of Commissioners finds reasonably necessary to protect the public health, safety, and welfare. Failure to abide by such terms and conditions shall forfeit the statutory vested right. Approval on condition that a variance is obtained shall not confer a vested right until and unless said variance is obtained. Such a condition shall not infer that a variance will be granted absent an appropriate finding of fact.
- (D) **Amendment:**

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An amendment to the site specific development plan shall not extend the vesting period unless expressly provided at the time the amendment is approved.

(E) Voluntary Annexation:

A landowner with a vested right who petitions for voluntary annexation shall submit a signed statement declaring a vested right on the properties subject to be annexed has been established pursuant to GS 160A-385.1 or 153A-44.1 and shall provide proof of such rights. Failure to do so or a statement that declares no vested rights exist shall be binding on the landowner and any vested right shall be terminated.

### **3.15 Enforcement and Remedies**

(A) Purpose

This section is established to enforce and correct violations of this ordinance as authorized by GS 160A-174, 160A-175, 160A-193, and other applicable provisions of state law. Its intent is to ensure that uses, structures and lots comply with this ordinance at all times; and to encourage voluntary corrections of violations when possible.

(B) Violations

- (1) Failure to Comply: Failure to comply with any provision of this ordinance or the conditions of an approved permit at any time is a violation of this Ordinance, subject to the penalties and remedies provisions of this Section.
- (2) Complaint: Any person may file a complaint with the Zoning Administrator to allege a violation. Such complaint shall state the condition that is alleged to be a violation.
- (3) Inspection: When a violation is alleged or observed, the Zoning Administrator shall investigate, and if substantiated, shall issue a written notice of violation to the offender.
- (4) Notice of Violation
  - (a) The initial notice shall state: (1) the nature of the violation; (2) the provision of this ordinance violated; (3) the actions required to correct the violation; (4) the deadline to voluntarily correct the violation or file an appeal pursuant to Section 3.12.
  - (b) A final notice of violation, which may be the initial notice, shall state the remedies and penalties that may be applied to enforce this ordinance if the violation is not voluntarily corrected.

(C) Remedies & Penalties

The Zoning Administrator shall take appropriate action to abate a violation and insure compliance with this ordinance. The remedies and penalties in this section are listed in their preferred but not required sequence of application.

- (1) Civil Remedies: In addition to the remedies cited in this ordinance and pursuant to GS 160A-175, any person who violates this ordinance may be fined a civil penalty of \$100 for each day a violation continues after the deadline set in the notice of violation. The Town may seek to recover the fine together with all costs by filing a civil action in the nature of a suit to collect a debt.

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- (2) **Stop-Work Order:** The Zoning Administrator may issue a Stop Work Order for work associated with an approved permit. The reasons for the order and the action required to resume work shall be stated.
  - (3) **Permit Revocation:** A permit may be revoked upon finding that it was issued in reliance on false statements or misrepresentation, that work associated with the permit is in substantial departure from the approved zoning permit, or a permit has been issued in violation of this ordinance. A written notice of revocation shall be sent to the permit holder.
  - (4) **Injunction:** An application for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful activity may be filed with the appropriate court. It may be filed before or after all other remedies are applied.
  - (5) **Order of Abatement:** In addition to an injunction, the Town may apply to the court for an Order of Abatement to direct that:
    - (a) Buildings or other structures on the property be closed, demolished, or removed;
    - (b) Fixtures, furniture or other moveable property be removed;
    - (c) Improvements, alterations, or repairs be made; or
    - (d) Other actions are taken to bring the property into compliance with this Ordinance.
  - (6) **Equitable Remedy:** The Town may apply to a court of law for appropriate equitable remedy to enforce this Ordinance. The fact that other remedies are available under general law or this Ordinance shall be no defense to the Town's application for equitable relief.
  - (7) **Criminal Penalties:** Pursuant to North Carolina General Statutes Section 14-4, persons convicted of violating this Ordinance shall be guilty of a misdemeanor and subject to a fine not to exceed \$500.
- (D) **Repeat Violations:**
- If an offender repeats a violation within a two-year period, the Town may begin at the point of enforcement where the previous violation was resolved. Zoning Districts





## Article 4. Zoning Districts

### 4.01 Purpose

This Article establishes various zoning districts deemed suited to carry out the purpose of this Ordinance and to implement the comprehensive plan. Each district has corresponding regulations (Article 6: District Regulations) on the construction, alteration, repair, or use of buildings, structures, and lands within the Town's jurisdiction.

### 4.02 Establishment of Zoning Districts

(A) Use District:

The Town's territorial jurisdiction is divided into various residential and nonresidential districts that establish the types of uses permitted in each district.

(B) Overlay Districts:

Overlay districts apply to special situations that require additional regulations to protect the public health, safety, and welfare. Overlay district regulations are in addition to or in the place of the underlying use district regulations.

(C) Establishment of Zoning Districts:

The zoning districts and their purpose are established in the following table.

Abbreviation	Title	Purpose
<b>Use Districts</b>		
R1	Single-family Residential	To accommodate low density single-family residential development and complimentary uses compatible with the rural character of Stem.
R2	Mixed Residential	To allow a compatible mix of attractive housing types and neighborhoods with convenient access to amenities that enhances the quality of life of residents.
CC	Community Commercial	To meet the retail and service needs of the community and promote economic opportunities for locally-owned businesses.
LI	Light Industrial	To accommodate light industrial and warehousing activities that provide quality job opportunities to residents, expand the local economy, and preserve community resources.
<b>Overlay Districts</b>		
WS-II	WS-II Watershed	To protect the public health, safety, and welfare and to implement the Watershed Protection Rules in Chapter 143, Article 21 of the General Statutes as they apply to the jurisdictional boundary of this ordinance.
MHP	Manufactured Home Park	To provided affordable housing opportunities in a quality living environment for all residents, to protect the character and property values of nearby residential areas, and promote the health, safety, and welfare of park residents.
SFHA	Special Flood Hazard Area	To promote the public health, safety and general welfare by minimizing public and private losses due to flood conditions in specific areas.

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## 4.02A Conditional Zoning Districts

(1) Purpose. Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined standards and rules, regulations, or other conditions imposed as part of the legislative decision creating the district and applying it to the particular property. A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted comprehensive plan, and adopted district and area plans.

(2) There are two types of Conditional Zoning Districts available:

(A) Conditional Zoning District Type 1

- (1) Is defined as a conditional zoning district created as a stand-alone district with its own unique conditions. Under a Conditional Zoning District Type 1, an owner would have the freedom to develop his/her own unique list of permitted uses and design standards. It is also understood that such a district would need to be designed so as to maintain the integrity and characteristics of the surrounding community as well as conform to the spirit and intent of the Zoning Ordinance. A Conditional Zoning District Type 1 would be most suitable in situations where none of the current conventional Zoning Districts accommodate the desired use(s), such as a large mixed-use planned development in which the owner/developer has a clear vision as to how the property is to be developed.
- (2) Only the property owner(s) of a proposed Conditional Zoning District Type 1 shall be eligible to apply for rezoning to a Conditional Zoning District.
- (3) The owner shall specify the use(s) of the property and shall propose additional conditions to ensure compatibility between the development and the surrounding neighborhood. The conditions shall include all of the following (as applicable):
  - (a) The location on the property of the proposed use(s);
  - (b) The number of dwelling units;
  - (c) The location and extent of supporting facilities such as parking lots, driveways, and access streets;
  - (d) The location and extent of buffer areas and other special purpose areas;
  - (e) The timing of development;
  - (f) The location and extent of rights-of-way and other areas to be dedicated for public purposes;
  - (g) And any other such conditions the applicant may wish to propose.
- (4) The application shall include a Site Plan and detailed narrative text that specifies the conditions that will govern the development and use of the property.
- (5) It is required that applicants consult with the Stem Planning Board prior to submission of an application for a Conditional Zoning District. The Planning Board can assist the

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applicant in determining preliminary assessments regarding the appropriateness of the proposed conditions with respect to existing zoning and surrounding land use.

- (6) Applications for Conditional Zoning Districts shall be submitted and reviewed in the same procedural manner as set forth in Sections 3.02 through 3.07 of this Ordinance.

(B) The Conditional Zoning District Type 2

- (1) The Conditional Zoning District Type 2 is defined as a conditional zoning district created for the purpose of allowing a property owner to place additional conditions upon an existing, equivalent conventional, general use zoning district. For example, a Conditional Zoning District Type 2 would be the preferred zoning approach if a petitioner desired to reduce or narrow the number of permitted uses that would otherwise be allowed in a corresponding zoning district that would otherwise be allowed in a corresponding zoning contract, or:
- (a) Impose higher level design standards than that which exists within an equivalent general use zoning districts.
  - (b) Conditional Zoning District Type 2 would also be practical in situations where a petitioner desires to install or construct additional buffers or other physical features that would serve to increase the protection afforded neighboring properties and/or the appearance of the proposed development.
- (2) Only the property owner(s) of a proposed Conditional Zoning District Type 2 shall be eligible to apply for rezoning to a Conditional Zoning District.
- (3) The owner shall specify the use(s) of the property and shall propose additional conditions to ensure compatibility between the development and the surrounding neighborhood. The conditions shall include all of the following (as applicable):
- (a) The location on the property of the proposed use(s);
  - (b) The number of dwelling units;
  - (c) The location and extent of supporting facilities such as parking lots, driveways, and access streets;
  - (d) The location and extent of buffer areas and other special purpose areas;
  - (e) The timing of development;
  - (f) The location and extent of rights-of-way and other areas to be dedicated for public purposes;
  - (g) And any other such conditions the applicant may wish to propose.
- (4) It is required that applicants consult with the Stem Planning Board prior to submission of an application for a Conditional Zoning District. The Planning Board can assist the applicant in determining preliminary assessments regarding the appropriateness of the proposed conditions with respect to existing zoning and surrounding land use.
- (5) Applications for Conditional Zoning Districts shall be submitted and reviewed in the same procedural manner as set forth in Sections 3.02 through 3.07 of this Ordinance.

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(C) Scope of Approval

- (a) Any conditions in association with a Conditional Zoning District and so authorized shall be perpetually binding upon the property included in such Conditional Zoning District unless subsequently changed or amended as provided for in this Article.
- (b) The applicant shall obtain certification of the approval of the Conditional Use District, and shall record the legal description and accompanying map exhibit/site plan in the office of the Register of Deeds of Granville County.
- (c) If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any of the conditions of approval, the Conditional Zoning District shall be deemed null and void and the governing body shall initiate proceedings to rezone the property to its previous zoning classification. Continued or repeated violation of the conditions in an approved Conditional Zoning District shall constitute an applicant's failure to accept said conditions.
- (d) Any violation of a condition in an approved Conditional Zoning District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violations.
- (e) The approval of a zoning map or text amendment does not authorize any development activity.

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### 4.03 The Official Zoning Map

(A) Adoption:

The Official Zoning Map and all matters shown on it are incorporated by reference as part of this ordinance. The Map shall delineate the boundaries of the zoning districts and the town's jurisdictional boundaries. The map shall be signed by the Mayor and attested by the Town Clerk under the following certification: "This is to certify that this is the official zoning map of the Zoning Ordinance for the Town of Stem, North Carolina". The date of adoption shall also be shown. The official zoning map shall be maintained in the zoning administrator's office and available for public inspection.

(B) Map Amendments:

Map amendments shall be listed in chronological order, with a brief description of change, on the official zoning map under the following entry: "On [date of approval] by official action by the Board of Commissioners, the following amendments were made to the Official Zoning Map:". The statement shall be signed by the Mayor and attested by the Town Clerk.

(C) Damaged or Destroyed Map:

If the official zoning map is damaged, destroyed, lost, difficult to read, or to correct drafting errors or omissions, the Board of Commissioners may adopt a replacement map. The replacement map shall supersede the original but shall not have the effect of rezoning any property. Unless the original map is lost or destroyed, it shall be preserved in the zoning administrator's office for future reference.

(D) Conflicts with Copies of Map:

The official zoning map shall supersede conflicts with paper or electronic copies.

(E) Interpreting District Boundaries:

Where uncertainty exists on the location of district boundaries, the following rules of interpretation shall apply:

- (1) Centerlines: Boundaries indicated as approximately following the centerlines of streets, railroads, or other right-of-way shall be construed to follow such centerlines.
- (2) Lot lines: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- (3) Town limits: Boundaries indicated as approximately following corporate or ETJ boundary lines shall be construed as following such boundary lines.
- (4) Water bodies: Boundaries indicated as approximately following streams, rivers, creeks, or other water bodies shall be construed as moving with any change in course.
- (5) Parallel: Boundaries indicated as parallel to, or extensions of features indicated in the above paragraphs shall be so construed.
- (6) Determination: Where the scale, lack of detail, or legibility of the zoning map creates uncertainty or conflict as to the intended location of a zoning district using the above means, the board of adjustment shall interpret the exact location after a quasi-judicial hearing.

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## Article 5. General Regulations

### 5.01 Applicability

These regulations apply uniformly to all lands and structures in any district within the town's jurisdiction. They are the minimum standards unless a greater standard is imposed elsewhere in this ordinance.

### 5.02 Lots

#### (A) Compliance With District Regulations

The dimension and orientation of lots shall comply with the applicable use and district regulations of this ordinance, and shall be of sufficient size to accommodate off-street parking, loading, buffer, and other development standards of this ordinance. No lot shall be reduced to less than the minimum standards of this ordinance.

#### (B) Existing Lot of Record

An existing lot of record in a residential district with less than the minimum area allowed in the district in which it is located may be used for a single-family residence if held in separate ownership from an abutting lot if the dwelling complies with the setback requirements for the district.

#### (C) Lot Access

No building or use shall be established on a lot without permanent access to a public street. Access may be from a private easement or public right-of-way.

#### (D) Yard and Open Space

(1) **Setback Encroachments:** Encroachment into the required yard setback shall be prohibited except as provided below:

- (a) Architectural features such as eaves, bay windows, balconies, gutters, awnings, steps, chimneys, and similar features and overhangs may encroach no more than 3 feet from the building wall.
- (b) Detached accessory buildings may encroach into the rear or side yard within 5 feet of the property line, but no closer than 20 feet from a dwelling unit on an adjacent lot.
- (c) Off-street parking and loading facilities subject to Section 5.06
- (d) Outdoor storage and display areas subject to Section 7.08
- (e) Fences and walls subject to Section 5.03(C)
- (f) No encroachment shall impede access to public easements or right-of-way for their intended purpose. The Town may remove such encroachments, including fences, without notice or compensation to the fence owner.
- (g) No encroachment shall project beyond the property line.

(2) **Double frontage lots:** Lots with frontage on more than 1 street, such as corner lots and through lots, shall comply with the front yard requirements of this ordinance on each side with frontage.

- (3) **Visibility at Intersection:** Visibility at intersections shall be unobstructed between 3 feet and 6 feet above the crown of the street within a triangular area formed by connecting points that extends 10 feet from the point of intersect of a driveway and street right-of-way line or 15 feet from the point of intersect of two street right-of-way lines.

**5.03 Buildings and Structures**

(A) Buildings to Be On a Lot

- (1) No more than 1 principle building is permitted on a lot except in a planned development.
- (2) Buildings shall be placed on the lot to provide convenient access to public services and utilities.

(B) Building Height

- (1) Building height shall conform to the requirements of the applicable district regulations.
- (2) **Exceptions:** Church spires, belfries, cupolas, or domes not used for human occupancy, chimneys, parapet walls, cornices, or necessary mechanical appurtenances may exceed height limitations to the extent necessary for their proper functioning.

(C) Fences and Walls

(1) **Maximum Height:**

Location	In residential districts	In non-residential districts
Front yard	4 feet	4 feet
Side yards	6 feet	8 feet
Rear yards	6 feet	8 feet

- (2) **Material:** Fencing may be constructed of aluminum, steel, vinyl, chain link, wooden, brick, masonry, decorative stone or other material similar in durability. No barbed wire or sharp pointed fence less than 8 feet tall shall be erected.

- (3) **Federal, State or Local Utilities:** May install a fence as described in §5.03 (C) (2) with the exception that the fence may not be less than 6 feet if topped by barbed wire.

(D) Manufactured Homes

A manufactured home, when permitted on an individual lot, shall conform to the building setback, yard, and off-street parking standards applicable to a conventional, single-family residential dwelling on the same lot.

**5.04 Landscaping (reserved)**

**5.05 Buffer and Screening**

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(A) General Requirements and Regulations

- (a) Whenever a buffer strip is required by this article, such strip shall meet the specifications of this section, unless greater specifications are given in another article of this chapter.
- (b) Whenever a buffer strip is required by this article, the specifications shall be submitted to the Zoning Administrator. Written permission of the Zoning Administrator shall be obtained prior to the actual construction of the buffer zone(s).
- (c) The Zoning Administrator is deemed responsible for determining the correctness of the buffer zone.
- (d) All nonresidential and multifamily residential uses shall be screened from adjacent residential lots by an opaque screen at least 6 feet in height.
- (e) The buffer strip shall consist of a planted strip which shall be a minimum of 10 feet in width, shall be composed of evergreen bushes, shrubs, and/or trees such that at least two rows of coverage are provided from the ground to a height of four feet when planted. A driveway or pedestrian walkway leading to the land use on the property may cross the buffer.
- (f) All buffer strips shall become part of the lot(s) on which they are located, or in the case of commonly-owned land, shall belong to the homeowners or property owners association.
- (g) The buffer strip shall be maintained for the life of the development. Maintenance shall be ongoing and shall be the responsibility of the property owner and the occupant, if different than the owner
- (h) If a natural screen is already in place which will adequately fulfill the purpose of the buffer strip, the Zoning Administrator may, in writing, allow a substitution of all or part of this screen for the buffer strip. Written permission of the Zoning Administrator shall be obtained before removing any existing natural buffer.
- (i) Where, because of intense shade or soil conditions, a planting screen cannot be expected to thrive, the Zoning Administrator may, in writing, allow the substitution of a well maintained wood or masonry wall or other structure or adornments as deemed suitable for the conditions and intended use.
- (j) Riparian buffer areas required under the watershed protection regulations shall not count towards the requirements of this section.



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## 5.06 Off-Street Parking and Loading

### (A) Purpose

The purpose of this section is to provide for adequate off-street parking and loading areas to reduce traffic congestion, enhance traffic and pedestrian safety, enhance the appearance of parking areas, and protect adjacent properties from the adverse impacts of uses with inadequate off-street parking and loading.

### (B) Generally

(1) No off-street loading space shall be used to satisfy off-parking requirements and vice versa.

(2) Computing Requirements:

- (a) When more than one use is permitted on a lot, the number of required off-street parking and loading spaces shall be the sum of the number required for each use. The board of adjustment may reduce the number of spaces required upon finding that sufficient parking is available to accommodate each use during peak demand.
- (b) Where seating capacity is the standard for determining space requirements, it shall be determined by the number of seating units (i.e. chairs), or each 18 lineal inches of benches or pews. When number of employees are the standard, it shall be based on maximum shift.
- (c) When the total computed for required off-street parking or loading spaces results in a fraction equal to or greater than one-half, the next higher whole number shall be required.

(3) Buffer and Screening: In addition to the standards of Section 5.05, a 5-foot buffer strip shall separate all vehicular use areas from the right-of-way and any abutting property line except at permitted points of access.

(4) Construction and Maintenance:

- (a) All vehicular use areas shall be paved with a permanent, all-weather surface (i.e. asphalt, concrete, stone) and maintained to minimize nuisance from dust and loose debris. These areas shall be paved prior to occupancy.
- (b) All parking spaces shall be clearly identified and marked with paint lines, curbs, or some other manner approved by the Zoning Administrator. Areas shall be maintained in good condition and free of dust, trash, or other debris.

### (C) Parking Design

(1) Location: Accessory off-street parking facilities shall be on the lot of the use it serves. Parking for nonresidential uses may be provided on a separate lot within 200 feet with the property owner's written consent provided such use is permitted in the district where the separate lot is located.

(2) Access: Off-street parking facilities shall be designed to allow motorist to access spaces without impeding vehicular and pedestrian traffic circulation on the site and adjacent streets.

(3) Dimensions: Off-street parking spaces shall be dimensioned as follows:

Parking Angle (degrees)	Stall Dimensions (feet)		Aisle Width (feet)	
	Width	Length	1-way	2-way
0 (parallel)	8	22	10	20
30	9	18	12	Prohibited
45	9	18	15	Prohibited
60	9	18	18	18
90	9	18	20	24
<i>Note: Accessible parking stalls shall comply with applicable ADA and industry standards</i>				

(D) Parking Ratios:

Off-street parking spaces shall be provided in the ratios specified below. If a use is not specifically listed, the Zoning Administrator may apply parking standards of a similar use that is listed.

Uses	Minimum Spaces (DU=dwelling units; sf=square feet; GFA=Gross floor area)
Adult Care Facilities (i.e. nursing homes)	1 per 4 beds, 1 per doctor and nurse, 1 per 4 other employees
Arcade	1 per game table, video terminal, or other amusement device
Art Galleries and Museums	1 per 300 sf GFA
Assembly (auditoriums, theaters, etc.)	1 space per 4 seats or 1 per 40 sf GFA available to accommodate movable seats in an assembly room
Bowling, billiards, etc.	2 per lane or pool table,
Car parts, accessories, tires	1 per 375 sf GFA, including service bays, wash tunnels, and retail areas
Car Repair Shops	1 per 375 sf GFA, including service bays and retail areas
Car Sales	1 per 400 sf GFA sales and service areas
Car Wash (Automatic)	1 per 375 sf GFA, including service bays, wash tunnels, and retail area.
Childcare facility	1 per 375 sf GFA
Churches, temples, synagogues and other religious institutions	1 per 8 seats
Club or fraternal lodge	1 per 3 persons allowed per capacity as established by local fire, building, or health codes
Community Center	1 per 250 sf GFA
Construction-related industry	1 per 1,000 sf GFA
Convenience Store	1 per 500 sf GFA
Financial, real estate, and insurance	1 per 400 sf GFA
Fitness Center, gym, or athletic club	1.5 per 1,000 sf GFA
Funeral services	1 per 4 seats
Gas Stations	1 per 375 sf GFA including service bays, wash tunnels, and retail areas.
Hardware Store	1 per 200 sf GFA
Home and commercial service and repair (Janitorial, landscaping, pest control, carpet cleaning, plumbing, heating, etc.)	1 per 1,000 sf GFA
Library	1 per 300 sf GFA
Light industry	1 per 300 sf GFA

Uses	Minimum Spaces (DU=dwelling units; sf=square feet; GFA=Gross floor area)
Lodging (hotels, motels, etc.)	1 per sleeping room and 1 per 400 sf of assembly area
Medical clinic or hospital	1 per 400 sf GFA
Mini-warehouse	1 per 4 units plus 2 for manager's quarters
Movie theater	1 per 6 seats
Neighborhood shopping center	1 per 300 sf GFA
Offices (professional and administrative)	1 per 300 sf GFA
Outdoor Recreation Area (Commercial), Driving Range, Miniature Golf, etc.	1 per 3 persons at maximum capacity, plus 10 spaces, plus 1 per 2 employees
Personal service (barber shops, beauty salons, etc)	1 per 75 sf GFA
Plumbing and Heating	1 per 900 sf GFA
Post office	1 per employee
Public administration	1 per 300 sf of public use
Public safety (police/fire)	1 per employee on normal shift + 1 per 200 sf of office space.
Residential (multifamily, townhouse, and manufactured home parks)	2 per DU
Residential (single and two family dwellings)	2 per DU
Restaurant and Taverns	1 per 75 sf GFA
Retail Stores (general)	1 per 300 sf GFA
Utility facilities	1 per employee
Warehouse & distribution center	1 per 600 sf GFA
Wholesale trade	1 per 600 sf GFA

(E) Loading Standards

- (1) Requirements: At least 1 off-street loading space shall be provided per 40,000 sf of GFA or fraction thereof of industrial, wholesale, retail, service, or other establishments where the delivery of goods is customary to their operation.
- (2) Dimensions: Loading spaces or bays shall be at least 10 feet wide and 30 feet deep and 14 feet in height exclusive of driveways and maneuvering space.
- (3) Access: Each off-street loading space shall be designed with appropriate means of vehicular access to the use it serves and to a street or alley.

## 5.07 Water and Sewer

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The property owner shall connect all buildings to a public water and sewer system pursuant to the Town's water and sewer connection policies. Where a public system is not reasonably available, a private or community system in compliance with applicable county or state standards shall be provided

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## Article 6. District Regulations

### 6.01 Use District Regulations

(A) Applicability:

This section applies development standards to the various use districts established under Section 4.02(C). The Table of Uses identifies what uses are permitted (as a permitted use, special use, or conditional use) or prohibited in each use district.

(B) Uses Not Mentioned

- (1) Uses not listed in the Table of Uses are prohibited unless the Zoning Administrator interprets it to be substantially similar to and compatible with a listed use.
- (2) Interpretation of Similar Uses: The Zoning Administrator shall consider similarities in type (retail, residential, manufacturing processes, etc.) and character in terms of density, parking and loading demands, traffic by type and volume to a listed use. The purpose of the zoning district shall also be considered. The Town may consult the NAICS Codes, General Statutes, or other credible sources or with surrounding jurisdictions for guidance.
- (3) Insertion into Table of Uses: The Zoning Administrator shall submit to the Board of Commissioners a recommendation on whether the Table of Uses should be amended to add a use deemed similar to the listed use as soon as practical after the Zoning Administrator has made a determination regarding a particular use under section 6.01(B)(2) above.
- (4) Provision for Unlisted Use: If the proposed use is not similar to a listed use, the applicant may request an appropriate amendment pursuant to Section 3.13.
- (5) Appeals may be filed pursuant to Section 3.12.

(C) Table of Uses

- (1) Table Key: The key to reading the table of uses permitted in each use district is as follows:
  - P** Permitted uses: The letter “P” indicates that the listed use is permitted with a Zoning Permit without a public hearing.
  - C** Conditional uses: The letter “C” indicated that the listed use is permitted with a Conditional Use Permit issued pursuant to Section 3.08.
  - S** Special uses: The letter “S” indicated that the listed use is permitted with a Special Use Permit issued pursuant to Section \_\_.
  - Prohibited uses: A dash symbol indicates that a use is prohibited in the district.

*The column titled “Specific Use” cross-references the sections under Article 7 that apply additional standards to that specific use.*
- (2) Table of Uses: Principle uses and their customary accessory uses shall be permitted as indicated in the following table.

Use Category	R-1	R-2	CC	LI	Specific-Use
<b><i>Residential use</i></b>					
Single-family detached dwelling	P	P	--	--	
Family Care Home	P	P	--	--	7.04
Duplexes (two-family) dwellings	P	--	--	--	
Multi-family and Townhomes	--	C	--	--	
Manufactured homes (Class A)	--	P	--	--	7.07(B)
Manufactured Home Park	"S" in MHP Overlay District				Y
<b><i>Commercial uses</i></b>					
Administrative and support services	--	--	P	--	
Agricultural supply stores	--	--	P	--	
Auto Repair Shop (major repair)	--	--	P	P	
Auto Service Center (minor repair)	--	--	P	--	
Automotive sales or leasing	--	--	P	--	
Automotive supply store	--	--	P	--	
Book and Music Stores	--	--	P	--	
Bowling and private recreation	--	--	P	--	
Building supply store	--	--	P	--	
Childcare Center	--	--	P	--	
Clothing and apparel store	--	--	P	--	
Convenience store (with or without gas sales)	--	--	P	--	
Electronics and appliance stores	--	--	P	--	
Equipment rental and leasing	--	--	P	--	
Financial Institutions (banks, credit unions, etc.)	--	--	P	--	
Fitness centers or health clubs	--	--	P	--	
Florists	--	--	P	--	
Funeral services	--	--	P	--	
Furniture and Home Furnishing stores	--	--	P	--	
General merchandise (discount) store	--	--	P	--	
Gift and novelty stores	--	--	P	--	
Grocery stores	--	--	P	--	
Hardware store	--	--	P	--	
Kennels	--	--	C	P	7.06
Lawn and Garden Equipment and Supplies	--	--	P	--	
Medical offices or clinics	--	--	P	--	
Mini-storage	--	--	P	--	

Use Category	R-1	R-2	CC	LI	Specific-Use
Community Commercial Center			C		
Office supply and stationary,	--	--	P	--	
Personal care services	--	--	P	--	
Pet and Pet Supplies Stores	--	--	P	--	
Pharmacy (Drug Store)	--	--	P	--	
Professional, scientific, technical services	--	--	P	--	
Real estate agents and brokers	--	--	P	--	
Restaurants	--	--	P	--	
Sexually oriented business	--	--		S	7.09
Sporting Goods and Hobby stores	--	--	P	--	
Used merchandise, antiques, and secondhand stores, exclude motor vehicles	--	--	P	--	
<b>Industrial uses</b>					
Apparel and accessories manufacturing	--	--	--	P	
Bakery product manufacturing	--	--	--	P	
Beverage manufacturing	--	--	--	C	
Electrical Equipment and Appliance Manufacturing	--	--	--	C	
Food processing plant	--	--	--	S	
Furniture Manufacturing	--	--	--	C	
Glass product manufacturing	--	--	--	P	
General Construction	--	--	--	C	
Grain Mills (corn, wheat, rice, etc.)	--	--	--	P	
Junkyards or Salvage Yards	--	--	--	C	
Machinery manufacturing	--	--	--	P	
Motor vehicle parts manufacturing	--	--	--	P	
Publishing	--	--	--	P	
Printing	--	--	--	P	
Recycling drop-off facility	--	--	--	S	
Textile Mills	--	--	--	C	
Warehousing and Storage	--	--	C	P	
Wood product manufacturing	--	--	--	P	
<b>Public and Institutional uses</b>					
Cemeteries	C	C	P	P	
Civic, social, or fraternal organizations	C	C	P	P	
Community Center	C	C	P	P	
Government offices	C	--	P	P	



Use Category	R-1	R-2	CC	LI	Specific-Use
Hospitals	C	C	C	C	
Museums	C	C	P	P	
Park and recreation facilities	C	C	P	P	
Postal services	--	--	P	P	
Public Library	--	--	P	P	
Public safety (fire, police, EMS, etc.)	C	C	P	P	
Religious Institutions	C	C	P	P	
Schools (elementary and secondary)	C	C	P	P	
<b>Utilities and Communications</b>					
Electric Power Transmission and Distribution	C	C	C	C	y
Sewage Treatment Plant	S	S	S	S	y
Water Treatment and Storage	C	C	C	C	y
<b>Agricultural uses</b>					
Farming (crop production)	P	--	--	--	
Nurseries or Greenhouses	C	--	P	--	

(D) Dimensional Standards

Zoning District	R1	R2	CC	LI
Maximum Density/built-upon area	Shall comply with density and built-upon limitations of Watershed Regulations.			
Minimum frontage ( feet)	25	20	25	25
Minimum lot width (feet)	100	70	No minimum width	
Minimum setback (feet)				
Front yard	25	20	20	25
Side yard	15	10	10	20
Rear yard	25	20	15	20
Maximum building height (feet)	45	45	45	45

**6.02 Manufactured Home Park Overlay Regulations**

RESERVED

**6.03 Special Flood Hazard Overlay Regulations**

RESERVED

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## Article 7. Specific Use Regulations

### 7.01 Purpose

This article establishes regulations for specific land uses that are designed to protect surrounding property values, to protect the public health, safety, and welfare, and implement the comprehensive plan. These regulations are in addition to the procedures and standards established elsewhere in this ordinance.

### 7.02 Accessory Uses

#### (A) Generally

- (1) Where a principal use is permitted, its customary accessory use and structure shall also be permitted in compliance with this ordinance.
- (2) Accessory uses shall be incidental and subordinate to the principle use it serves.
- (3) No detached accessory building shall be larger or exceed the height of the principal structure.
- (4) Detached accessory structure shall be located behind the front building line of the principal structure.
- (5) Detached garages and roofed accessory structures physically connect to the principal structure on a site must meet setback regulations for the principal structure.

#### (B) Establishment

No accessory structure or use shall be constructed or established on a lot before construction or establishment of the principle use or structure. No accessory building or use shall be permitted on a vacant lot.

#### (C) Detached Residential Structures

- (1) Detached residential accessory structures include, **but are not limited to:** sheds, barns, lean-tos, shelters, shops, pre-manufactured buildings, carports and detached garages.
- (2) A maximum of one (1) detached residential accessory structure is permitted per lot except that a lot may have both a carport and one (1) other detached accessory structure or one (1) detached garage and one (1) detached accessory structure except for a carport.
- (3) The structure if less than 200 square feet may be constructed within five (5) feet from the rear and side property lines.
  - (a) No detached accessory structure shall be closer than 20 feet from a dwelling on an adjacent property.

### 7.03 Cluster Development

Must comply with the watershed protection ordinance adopted by the Town and approved by the appropriate State authority.

### 7.04 Family Care Home

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No family care home shall be permitted within a one-half mile radius of an existing family care home.

## **7.05 Home Occupations**

### **(A) Purpose**

The purpose of this section is to: (1) allow home occupations as an accessory use in an occupied dwelling unit; (2) ensure that such home occupations are compatible with nearby residential properties; (3) ensure that public infrastructure is not burdened beyond what is normally associated with residential uses; and (4) allow residents to use their homes as places to enhance their economic well-being.

### **(B) Standards**

- (1) The occupation shall be secondary to the residential occupancy of the dwelling.
- (2) The principle dwelling shall not be altered in way that changes the residential character of the dwelling.
- (3) The total area used for the home occupation shall not exceed 30 percent of the gross floor area of the dwelling.
- (4) The use shall be conducted entirely inside the dwelling.
- (5) No more than 1 nonresident shall be employed at the site of the home occupation.
- (6) Outdoor storage of equipment or materials used in connection with a home occupation is prohibited.
- (7) A home occupation shall not generate noise, solid waste, vibration, smoke, dust, odors, heat, glare, electrical interference or other nuisance noticeable at or beyond the property line.
- (8) One non-illuminated sign with a maximum area of 4 square feet may be mounted flush against the dwelling.
- (9) The home occupation shall not generate traffic other than what is customary for the residential use. Parking shall be provided in the driveway.

## **7.06 Kennels**

Commercial Kennels shall be located at least 200 feet from the nearest dwelling on a separate lot. No outdoor run area shall be located within 50 feet of any lot line. Facilities shall be constructed and operated in a manner that alleviates detrimental effects on persons occupying or patronizing adjacent buildings.

## **7.07 Manufactured homes**

### **(A) Generally**

- (1) A manufactured home shall be constructed after July 1, 1976 and certified as complying with the HUD Codes in effect at the time of construction.

- (2) The manufactured home shall be set up in accordance with the NC Department of Insurance standards. A continuous, permanent, masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home.
- (3) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit shall be constructed in accordance with the NC Department of Insurance standards, and shall be attached firmly to the primary structure and anchored securely to the ground; and
- (4) The moving hitch, wheels and axles, and transporting lights shall be removed.

(B) Class A Home (Doublewide)

In addition to the general standards, a Class A manufactured home shall comply with the following:

- (1) The manufactured home shall have a length that does not exceed 4 times its width measured along the longest axis and width measured at the narrowest part of the other axis.
- (2) The pitch of the roof of the manufactured home shall have a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in residential construction.
- (3) Roof structures shall have an eave projection of at least 6 inches, which may include a gutter.
- (4) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding, whose reflectivity does not exceed that of gloss white paint, wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

(C) Class B Home

A manufactured home that complies with all of the requirements of paragraph (A) above but fails to comply with any one of the criteria for a Class A home shall hereafter be designated as a Class B manufactured home. No Class B home shall be permitted outside of a manufactured home park.

## **7.08 Outdoor Storage and Display**

(A) Generally

This section applies to the keeping, in an unroofed area, any goods, material, or merchandise in the same place for more than 24 hours. Outdoor storage and display areas shall be permitted only as an accessory to the principle use on the lot.

(B) Outdoor Storage

- (1) Location: Storage areas are restricted to the rear and side yards.
- (2) Screen: Storage areas shall be screened from view from the street and adjacent properties. The height of the stored material shall not exceed the height of the screen.

(C) Outdoor display areas

- (1) Items displayed shall be those lawfully sold inside the building on the property. Vehicles displayed must be associated with the dealership on the lot.

- (2) Outdoor display areas shall be separated from the right-of-way and property lines by a 5-foot buffer strip except at permitted access points. Parking spaces used for outdoor display shall not count towards meeting parking requirement.

## 7.09 Sexually Oriented Businesses

### (A) Purpose

To protect the general safety and welfare of the community from the adverse secondary effects that the location of sexually oriented businesses can have on neighborhood, including but not limited to deterioration and blight through increased crime and other impacts, as has been documented by the State of North Carolina, other North Carolina municipalities and other jurisdictions.

### (B) Applicability

The provisions of this Section apply to all Sexually-Oriented Businesses. The use of land for a sexually oriented business shall be permitted as set forth in Section 6.01(C)(Table of Uses) subject to the criteria below.

### (C) Definitions

**Sexually-oriented Businesses:** means any “adult establishment,” as defined in North Carolina General Statute (NCGS) 14-202.10(2). This definition includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult live entertainment businesses or massage businesses. These uses are further defined in NCGS 14-202.10 and the definitions are adopted by reference.

### (D) Location Criteria

- (1) No sexually-oriented business shall be located within two thousand (2,000) feet of any other sexually-oriented business.
- (2) No sexually-oriented business shall be located within two thousand (2,000) feet of a school, day care or adult day care center, public or private recreation center, a church or a park used by the public for recreational purposes.
- (3) No sexually-oriented business shall be located within two thousand (2,000) feet of any Residential Zoning District or residentially developed property. The distance shall be measured from the subject property to the nearest point of the Residential District or property, whether such district or use is located.

### (E) Signs and Displays

Signage shall be regulated in accordance with Article 8 (Sign Regulations), except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

### (F) Hours of Operation

Hours of operation shall be limited to 2 pm to 2 am the following day.

(G) License

A certificate of occupancy shall only be effective with a valid business privilege license issued pursuant to the Town of Stem Code of Ordinance or by other appropriate jurisdictions.

## **7.10 Temporary Uses and Structures**

(A) Generally

No temporary use shall be permitted for more than 1 year and shall be removed upon expiration unless otherwise stated in this ordinance.

(B) Temporary Sales

(1) Farmers market, Christmas tree sales, and other seasonal or agricultural products may be established as a temporary use in any non-residential district with a zoning permit

(2) The duration shall not exceed 60 days per lot in a calendar year.

(C) Construction Trailers

A temporary trailer or mobile home may be used as a contractor's office or storage shed during the construction phase of a project. It shall be removed when construction is no longer active or a building permit is no longer valid. The trailer shall be placed on the property to which it is appurtenant.





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## Article 8. Sign Regulations

### 8.01 Generally

(A) Purpose

This purpose of this section is to:

- (1) To encourage use of signs as an effective means of communication
- (2) To maintain and enhance the aesthetic appearance of Stem, which attracts residents, businesses, and visitors
- (3) To promote and maintain pedestrian and traffic safety
- (4) To minimize possible adverse impacts on surrounding property values
- (5) To ensure signs are compatible with the rural character that the Town of Stem seeks to preserve

(B) Applicability

This section shall apply to signs that are visible from the outside of a building.

### 8.02 Prohibited Signs

The following signs are prohibited:

(A) Inflatable Signs:

Any sign that is inflatable or any balloon used as a sign that is used as permanent signage.

(B) Obsolete Signs

Signs that advertise a product that is no longer available, an event that has already occurred, or a business that has closed. Any sign pertaining to a use that has been discontinued for 180 consecutive days or 18 months in any 3 year period shall be deemed obsolete. Such signs shall be removed within 30 days from the date it becomes obsolete.

(C) Signs That Confuse Traffic

Signs that interfere with, mislead, or confuse traffic when viewed from a normal approach on a street.

(D) Signs with Visibility Triangle:

Signs that would violate the site-visibility triangle provisions under Section 5.02(D)(3).

(E) Signs in the Public Right-of-way

Signs placed in public rights-of-way except as specified in this ordinance.

(F) Signs Attached to Trees or Utility Poles

Signs attached to trees, utility poles, or other unapproved supporting structures outside of the public right-of-way.

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(G) Portable Signs

Any portable sign except temporary special events signs.

(H) Vehicle Signs

An unlicensed or inoperable stationary or abandoned motor vehicle, trailer or water craft parked on public or private property used specifically for signage.

### **8.03 Exempted Signs**

The following signs are allowed without a zoning permit as provided in this section:

(A) Identification Signs

Signs for the sole purpose of designating an assigned house number, owner and occupant names, or building name.

(B) Government Flags

Flags and insignia of government in any district.

(C) Public Signs:

Signs of a government body or public utility, including traffic signs, legal and public notices, railroad crossing signs, warnings signs, and similar signs.

(D) Temporary Signs

(1) Construction Sign: One temporary non-illuminated sign per street frontage that pertains to actual construction work is in progress on the site, subject to the following:

- (a) Must have a valid development permit for construction on the site;
- (b) Maximum sign area of 24 square feet and maximum height of 6 feet;
- (c) Minimum setback from any property line of 5 feet.
- (d) Shall be removed within 14 days after issuance of occupancy permit or when construction work is complete

(2) Political Sign:

- (a) May be displayed beginning on the 30<sup>th</sup> day before the “one-stop” early voting period established under GS 163-227.2;
- (b) Shall be removed by the 10<sup>th</sup> day after the primary or election day;
- (c) Maximum sign area of 6 square feet;
- (d) Signs may be placed in right-of-way with written consent of adjacent residential, commercial, or religious property owner and in compliance with GS 136-32 (b) through (e).

(3) Real Estate signs:

- (a) One sign advertising real estate for sale or lease;

- (b) Maximum sign area of 6 square feet;
- (c) Shall be located on the property so advertised:
- (d) Shall be removed within seven days after the property has been sold or leased.

(4) Yard Sale Signs:

- (a) Maximum 2 signs in the public right-of-way and 1 sign on the premises shall be allowed to advertise residential yard sale, garage sale, estate sale or similar events;
- (b) Maximum sign area shall be 6 square feet per sign;
- (c) May be posted within 3 days before the yard sale and shall be removed within 1 day after.

(E) Incidental Signs.

Small signs, emblems, or decals informing the public of goods, facilities, or services available on the premises. Examples include credit card signs, signs indicating the hours of business, no smoking signs, government emblems, signs used to designate bathrooms, and signs providing information on business affiliations. The maximum sign area for incidental signs total shall not exceed 2 square feet.

(F) Gas Station Pump Island Signs.

Customary information located on the structural supports of the pumps regarding the brand, type of gasoline sold or service provided.

(G) Warning Signs

Non-illuminated signs warning trespassers or of danger on land as posted with a maximum sign area of 4 square feet.

(H) Roof Signs

Signs that are not an integral part of the building design but fastened to and supported by or on the roof of a building, or projecting over or above the roof line or parapet wall of a building.

## 8.04 Signs Requiring Permits

Excepted as specifically exempted under Section 8.03, no sign shall be erected, repaired, or relocated without a zoning permit.

## 8.05 General Sign Standards

This section applies to all signs.

(A) Sign Construction

Signs shall comply with the State Building Codes and other applicable construction standards. Signs shall be constructed and maintained in sound structural condition.

(B) Sign Area Calculation

- (1) **Single-face Sign:** The area of a sign face shall be calculated by measuring the square footage of the smallest rectangle that can encompass all letters, words, emblems, and other copy that are part of the sign message. The supporting structure or bracing of a sign shall not be counted as part of the sign face unless they are part of the sign's message.
- (2) **Wall Signs:** Where a sign consists of individual letters and/or a logo affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
- (3) **Double-faced Signs:** Where a sign has two (2) or more faces, the area of only the larger face shall be considered when calculating maximum size, provided all faces are part of the same structure, or back-to-back and separated by no more than 2 feet.

(C) **Sign Height**

Sign height shall be measured from the base of the sign at normal grade after construction to the highest point of the sign structure or sign face, whichever is higher.

(D) **Location**

- (1) **Right-of-Way Setbacks.** Freestanding signs, unless otherwise provided, shall have a minimum set back from all property lines of 5 feet. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground, to the right-of-way.
- (2) **Obstruction to Doors, Windows and Fire Exits:** Signs shall not prevent free ingress and egress from any door, window or fire exit.

## **8.06 Standards for On-premise Signs**

On-premise signs shall comply with the following standards in addition to the general standards under Section 8.05.

Sign Type	Maximum Height	Maximum Sign Area per face	Maximum Number	Additional Requirements
<b>Wall Sign (Nonresidential districts)</b>	Shall not extend above roof line	2 square feet per linear foot of building frontage measured along the main entrance wall.	--	Sign area of awning signs are included.
<b>Projecting Sign (Nonresidential uses)</b>	Minimum ground clearance of 9 feet.	25% of awning or canopy surface	1 per street frontage	
<b>Window Sign (Nonresidential uses)</b>	--	25% of window area	--	
<b>Freestanding Sign (Nonresidential uses)</b>	25 feet	200 square feet	1 per street frontage	
<b>Residential Entrance Sign</b>	6 feet	48 square feet, aggregate	2 per entrance	Must provide private easement and maintenance agreement.

**Sign Definitions:**

**Sign:** A device, structure, or fixture that incorporates graphics, symbols, or written copy by which anything is made known, which is designed to attract attention or convey a message, and is visible from the public right-of-way or another property.

**Sign, On-premise:** Any sign that pertains to a business, product, or event associated with the principle use on the premises where the sign is located.

**Sign Face:** The area of display surface used for the sign message.

**Sign, Awning:** A sign that is painted on, printed on, or attached flat against the surface of an awning or canopy.

**Sign, Construction:** A sign that identifies the owners, financiers, contractors, architects, engineers or other participants in a project under construction.

**Sign, Directional:** A sign installed to direct traffic flow, regulate traffic operations and provide information in compliance with NC DOT standards for traffic control devices.

**Sign, Entrance:** A sign which marks the entrance to a subdivision, apartment complex, industrial park or other development complex.

**Sign, Freestanding:** Any sign supported by a pole or monument permanently fixed to the ground.

**Sign, Obsolete.** A sign that advertises a product that is no longer made or that advertises a business that has closed.

**Sign, Projecting:** A sign which is affixed to any building or structure, and any part of which extends beyond the building wall **more** (distinguish from a wall sign) than twelve (12) inches.

**Sign, Portable:** A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels.

**Sign, Real Estate:** An on premise temporary sign which makes it known that real estate upon which the sign is located is for sale, lease, or rent.

**Sign, Special Event:** A sign (including decorations and displays) celebrating a holiday, or special municipal or school activities.

**Sign, Temporary:** A sign, banner or any other sign displayed for a limited duration, but not including decorative displays for holidays.

**Sign, Wall:** A sign attached parallel to and extending 12 inches or less from the wall of a building. Painted signs and signs mounted on the face of a mansard roof or parapet shall be considered wall signs.

**Sign, Window:** A sign affixed to a window or within three feet of the window so as to be observable from the opposite side of the window to which such sign is affixed.

**Sign, Warning:** A sign limited to message of warning, danger, or caution or prohibition against a condition or activity such as trespassing, swimming, etc.

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## Article 9. Definitions

### 9.01 Rules of Construction

(A) Meanings and Intent:

Words defined in this Article shall have the specific meaning assigned in this ordinance, unless the context expressly indicates another meaning. Words that are not defined shall have their customary meaning.

(B) Tenses and Usage:

- (1) Words used in the singular include the plural and vice versa.
- (2) Words used in the present tense include the future tense and the reverse is true.
- (3) The words “must”, “will” and “shall” are mandatory.
- (4) The word "may" is permissive, except when the context of the use is negative, and then it is mandatory.

(C) Miscellaneous Terminology Rules

- (1) The word "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
- (2) The word "lot" includes the word "plot" or "parcel" or “tract”.
- (3) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- (4) The term "Board of Commissioners" or “Town Board” shall mean the governing board of the Town of Stem, North Carolina".
- (5) The term "Planning Board" shall mean the "Planning Board of Stem, North Carolina" established pursuant to GS 160A-361
- (6) The term "Board of Adjustment" shall mean the "Board of Adjustment of Stem, North Carolina" establish pursuant to GS 160A-381.
- (7) The term "street" shall mean any "road, roadway, alley, avenue, thoroughfare, boulevard, highway or interstate”.
- (8) If a conflict between the text of these regulations and any caption, figure, illustration, or table exists, the text of these regulations shall control.

(D) Citations and References:

References to town, state, or federal law or rule shall refer to the current version unless expressly indicated otherwise. When a referenced law or rule has been repealed and not replaced by other regulations, this ordinance requirement for compliance are no longer in effect.

(E) Interpreting Deadlines:

Deadlines stated in days shall mean calendar days. Deadlines stated in working days exclude weekends, holidays, or other nonworking days observed by the town. Deadlines that fall on a nonworking day shall extend to the next working day. The time required for action shall be computed by excluding the first day but including the last day.

## 9.02 General Definitions

**Applicant:** Any person authorized to file an application for a development order or approval in accordance with this ordinance.

**Application:** Any application for a development order or a development approval.

**Abandonment:** The discontinuance of a nonconformity voluntarily with an intent to abandon, or the commission of an overt act of substantial discontinuance.

**Abut or abutting:** Two lots having property lines in common.

**Adjacent:** Two lots that abut, or where they are separated by a roadway or street, right-of-way, or railroad line, or any stream, river, canal, lake, or other body of water.

**Accessory:** Any structure or use which is:

- a) Subordinate in size or purpose to the principal structure or use which it serves;
- b) Necessary or contributing to the comfort and convenience of the occupants (whether individuals or businesses) of the principal structure or use served; and
- c) Located on the same lot as the principal structure or use served.

**All weather surface:** A pavement for driveways and parking spaces that is dust free and not adversely affected by inclement weather.

**Buffer strip:** The required installation of landscaping and screening materials between zoning districts and certain uses.

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

**Building height:** The vertical distance from the established grade of the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for a mansard roof, or to the mean height level between the eaves and ridge for hip, gabled and gambrel roofs.

**Built-upon area:** Built-upon areas include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, and paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Certificate of compliance:** A certificate indicating that the premises comply with all the provisions of this Ordinance and conditions of a quasi-judicial approval. (Note: The certificate of compliance is issued after approval of a zoning permit and construction has occurred pursuant to the zoning permit.)

**Comprehensive plan:** The comprehensive development plan, land-use plan, transportation plan, any small area plans, neighborhood plans, capital improvement plan, official map, and any plan regarding land use and development officially adopted by the board of commissioners.

**Cluster development:** The grouping of buildings to conserve land resources and provide for innovative design of the project, including minimizing storm water runoff impacts. It may include any planned nonresidential, single-family and multifamily development.



**Developer:** A person who intends to undertake any development and who has a legal or equitable interest in the property to be developed.

**Development permit:** A building permit, zoning permit, subdivision approval, special or conditional use permit, variance, or other official action of local government having the effect of permitting the development of property.

**Development regulations:** All ordinances including zoning, subdivision, official mapping, capital improvements programming, building, housing, safety, and environmental codes (i.e. watershed protection) that relate to land use.

**Development:** The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more lots. Includes any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Dwelling:** A building containing sleeping, kitchen, and bathroom facilities designed for and occupied as a permanent residence by 1 family.

- a) **Dwelling, single-family:** A dwelling that is unattached to any other dwelling and surrounded by open space or yards.
- b) **Dwelling, two-family (duplex):** A detached building designed exclusively for the residence of two families, each living as an independent housekeeping unit.
- c) **Dwelling, multifamily:** A dwelling or group of dwellings on one lot containing separate living units for 3 or more families, but which may have joint services or facilities. Includes the term “apartments”.

**Lot of Record:** A lot recorded in the register of deeds as part of a subdivision or by metes and bounds description.

**Family subdivision:** A division of a tract of land: (i) to convey the resulting parcels, except parcels retained by the grantor, to relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (ii) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

**Family:** One or more persons related by blood, marriage, or adoption or 6 or less unrelated persons living together as a separate housekeeping unit.

**Family care home:** A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for 6 or fewer resident persons with disabilities.

**Frontage:** That distance where a property line is common with a street right-of-way line.

**Gross floor area (GFA):** The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, attached garages, porches, balconies, basements, and offices.

**Group home:** A facility where 7 or more nonrelated persons reside because of age, physical or mental disability, or developmental disability.

**Home occupations:** Any activity carried out for gain by a resident, and conducted as an accessory use in the resident’s dwelling unit.

**Impervious Surface:** Any material that prevents or decreases infiltration of water into the soil, including rooftops, paved roads, sidewalks, driveways, etc.

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**Intersection:** The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of two or more roadways, including a public or private street, a private driveway, or an alley that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different roadways joining at any other angle may come into conflict.

**Kennel:** A commercial operation involving the boarding, breeding, or grooming of more than four (4) adult dogs, cats, or other domestic animals, excluding pet grooming shops, veterinary clinics and veterinary hospitals..

**Landfill:** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this ordinance, this term excludes composting facilities.

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

**Lot size:** The horizontal land area within lot lines.

**Lot, corner:** A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

**Lot depth:** The average horizontal distance between the front and rear lot lines.

**Lot line:** Any boundary line of a lot.

**Lot width:** The width of a lot at the front setback line.

**Ordinance:** Any legislative action, however denominated, of the Town that has the force of law, including any amendment or repeal of an ordinance.

**Outdoor storage:** The keeping, in an unroofed area, of any goods, material, or merchandise in the same place for more than 24 hours.

**Pavement:** An artificial covering on a street, road, parking lot, driveway, walkway, patio, or other natural surface of the ground composed of concrete, asphalt, brick, or stone; or other manufactured products having the characteristics of concrete, asphalt, brick, or stone.

**Person:** Any natural person, corporation, partnership, joint venture, association (including homeowners' or neighborhood associations), trust, or any other entity recognized by law.

**Planned development:** A development constructed on a tract of minimum size under single ownership planned and developed as an integral unit, including shopping centers, subdivisions, manufactured home parks, or mixed-use developments.

**Public hearing:** A proceeding preceded by published notice and direct notice to certain persons and at which certain persons may testify and introduce evidence. In a quasi-judicial hearing, witnesses are sworn and subject to cross-examination.

**Public right-of-way:** A strip of land acquired by reservation, dedication, prescription, or condemnation, and used as a public street, alley, or walkway, or for drainage or public utility lines.

**Residential use:** All lots devoted primarily to a residential use, including:

- a) Single-family dwellings
- b) Manufactured homes
- c) Duplexes
- d) Multi-family dwellings
- e) Townhomes

**Manufactured home:** A dwelling unit constructed to the standards of the Department of Housing and Urban Development (HUD Code) and composed of 1 or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and exceeds 40 feet in length and 8 feet in width. Manufactured homes must bear a seal certifying compliance with the HUD Code in effect at the time of construction.

**Mobile Home:** A dwelling unit assembled in a manufacturing plant, but fails to comply with the construction standards of the HUD Code.

**Parking lot:** An off-street, ground-level open area for the temporary storage of motor vehicles. An area used exclusively to display motor vehicles for sale as part of an automobile dealership is excluded.

**Sign, Political:** Any sign that advocates for a political action or campaign.

**Street (road):** A right-of-way for vehicular traffic and which may afford the principal means of access to abutting lots.

**Structure:** Anything constructed or erected, including buildings, fences, and signs, on the land or attached to something having permanent location on the land.

**Sub divider:** Any person who divides any land into two or more lots.

**Town:** The municipality of the Town of Stem, North Carolina.

**Use:** The activity occurring on a lot or parcel for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied, including all accessory uses.

- a) **Use, Permitted:** A use that is allowed with an zoning permit and without a public hearing.
- b) **Use, Conditional:** A use that may be permitted after a quasi-judicial hearing by the *planning board*.
- c) **Use, Special:** A use that may be permitted after a quasi-judicial hearing by the *Stem Board of Commissioners*.

**Variance:** A permission granted by the town to relax a requirement established in this ordinance.

**Major variance:** A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

1. The relaxation, by a factor greater than five percent, of any buffer, density or built-upon area requirement under the high density option;
2. The relaxation, by a factor greater than ten percent, of any management requirement under the low density option;
3. Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved storm water management system.

**Vehicular use area:** An area used primarily for parking, circulation and storage of vehicles, including parking lots, loading areas, stacking spaces and driveways.

**Yard:** An open space on the same lot with the building unoccupied and unobstructed by any portion of the structure from the ground upward, except as provided in this Ordinance.

- a) **Yard, front:** A space extending the full width of a lot between the front lot line and the nearest principal structure.
- b) **Yard, rear:** A space extending the full width of a lot between the rear lot line and the nearest principal structure.
- c) **Yard, side:** A space extending the depth of a lot from the front yard to the rear yard between the side lot line and the nearest principal structure.

**Site Plan:** A proposal for development approval, including drawings, documents, and other information necessary to illustrate completely the proposed development.

**Development permit:** Any authorized action by an officer or body of the Town of Stem that approves, conditions, or denies a development or use of a lot, building, or structure, including any of the following: zoning map amendment; conditional use permit; zoning permit, certificate of occupancy/compliance; subdivision plat; watershed permit; variance; appeal; and site specific development plan.

### **9.03 Special Flood Hazard Area Definitions**

RESERVE

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