



## TOWN OF RIVER BEND

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### RIVER BEND TOWN COUNCIL AGENDA

Work Session Meeting

May 13, 2021

River Bend Town Hall

5:00 p.m.

1. Discussion – Revisions to Chapter 15 of Town Ordinances from Planning Board
2. Discussion – Review of Town's Financial and Budgetary Policies
3. Discussion – Year-End Budget Amendment
4. Review Agenda – Nobles
5. Closed Session – NCGS §143-318.11(a)(3)(6) – Consult with Attorney and Personnel

Pledge: Mayor Kirkland

**\*\*\*NOTE – DUE TO COVID-19, SEATING IS LIMITED AND ON A FIRST-COME BASIS. WE ENCOURAGE EVERYONE TO PRACTICE THE 3-W'S.**

## GENERAL PROVISIONS

### § 15.01.001 TITLE.

This chapter shall be known and may be cited as the Subdivision Regulations for the Town of River Bend, North Carolina, and may be referred to as the Subdivision Chapter.

### § 15.01.002 PURPOSE.

- A. The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial and extraterritorial jurisdiction of the Town of River Bend.
- B. It is further designed to provide for the orderly growth and development of the Town of River Bend; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety and the general welfare.
- C. This chapter is designed to further facilitate adequate provision for water, sewerage, stormwater management, parks and playgrounds and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

### § 15.01.003 AUTHORITY.

This chapter is hereby adopted under the authority and provisions of the G.S. Chapter § ~~160A~~160D, Article ~~198~~, ~~Part 2~~801.

### § 15.01.004 JURISDICTION.

The regulations contained herein as provided in G.S. § ~~160A~~160D, Article ~~19-8~~ shall govern each and every subdivision within the territorial and extraterritorial jurisdiction of the Town of River Bend as the areas of the jurisdiction from time to time are determined.

Penalty, see § 1.01.999



**§ 15.01.032 EFFECT OF PLAT APPROVAL ON DEDICATIONS.**

- A. Pursuant to G.S. ~~§160A160D-374~~806, the approval of a plat shall not be deemed to constitute or effect the acceptance by the Town of River Bend or public of the dedication of any street or other ground, public utility line or other public facility shown on the plat.
- B. The Town Council may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes, when the lands of facilities are located within its jurisdictional area.
- C. Acceptance of dedication of lands or facilities located within the jurisdictional area but outside the corporate limits of the Town of River Bend shall not place on the Town of River Bend any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the Town of River Bend shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside of its corporate limits.

**§ 15.01.033 SEPARABILITY.**

Should any section or provision of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, the decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**§ 15.01.034 VARIANCES.**

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this chapter would cause an unnecessary hardship, the Board of Adjustment may authorize a variance to the terms of this chapter only to the extent that it is absolutely necessary and not to an extent which would violate the intent of this chapter.

**§ 15.01.035 AMENDMENTS.**

The Town Council from time to time may amend the terms of this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have 30 days within which to submit its report. If the Planning Board fails to submit a report within the specific time, it shall be deemed to have approved the amendment.

**§ 15.01.036 ABROGATION.**

- A. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law.
- B. Where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

15.02.107 Non-conforming signs

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- 15.02.240 Protection of regulated trees
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**BUILDING, PRINCIPAL/MAIN.** A building in which is conducted the principal or main use of the lot on which it is located. Principal and main are synonymous here and in all other usage throughout the code.

**BUILDING SETBACK LINE.** A line parallel to the front property line in front of which no structure shall be erected.

**CHILD DAY CARE CENTERS AND NURSERIES.** Child day care centers or nurseries shall comply with the G.S. § 110, Article 7, which governs the licensing of day care facilities.

**COMMERCIAL USE.** Any use permitted by this chapter in a commercial district.

**COMMERCIAL VEHICLE.** A vehicle:

- (1) With lettering or signage indicating use for commercial purposes; or
- (2) In excess of ½ ton load capacity of a type customarily used for commercial purposes.

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

**COUNTY.** Craven County, North Carolina.

**DIMENSIONAL NON-CONFORMITY.** A non-conforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

**DWELLING.** A building or portion thereof designed, arranged or used for permanent living quarters for 1 or more families. The term **DWELLING** shall not be deemed to include a motel, hotel, tourist home or any structures designed for transient residence.

**DWELLING, MULTIPLE.** A building, including an apartment house, or portion of 1 used or designed as a residence for 3 or more families living independently of each other and doing their own cooking therein.

**DWELLING, SINGLE-FAMILY.** A building used or designated as a residence for a single family.

**DWELLING, 2-FAMILY.** A building or portion thereof used or designed as a residence for 2 families living independently of each other and doing their own cooking therein.

**ELEVATION.** In relation to mean sea level, new construction shall have the minimum elevation no less than 10.5 feet to the floor joist or no less than 11 feet to the lowest habitable floor, whichever is more restrictive.

**FAMILY.** One or more persons occupying a single family dwelling unit, provided that, unless all members are related by blood or marriage, no family shall contain more than 5 persons.

**FRONT LOT LINE.** The line of a lot contiguous with the street right-of-way.

**IMPERVIOUS SURFACE.** Any surface which because of its material or composition or compacted nature impedes or prevents natural infiltration of storm water into the soil. Impervious surfaces include, but



and bears a seal or label issued by the Department of Insurance pursuant to G.S. § 143-139.1, and which is transported to its site on an integral/permanent chassis, or any other type of modular unit that does not expressly meet the definition of off-frame modular home as defined herein.

- (2) For purposes of this chapter, an on-frame modular home constitutes a manufactured home as well, and is regulated herein as a manufactured home.

**PERSONAL SERVICES.** Occupations dealing with the body and/or physical appearance of a person that are regulated by the State of North Carolina by certification and/or registration.

**PRIVATE CLUBS AND LODGES.** Fraternal, athletic, dining and civic organizations or societies which are not inimical to the public health, welfare, safety, order or convenience.

**PROFESSIONAL SERVICES.** Occupations requiring special knowledge and academic degree and are regulated by the State of North Carolina by certification and/or registration.

**QUASI-JUDICIAL DECISION.** A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision making board.

**REGULATED TREE.** Regulated trees shall be defined as any tree with a circumference of 12.5 inches or greater, measured at 54 inches above the ground.

*Added 01/17/2008, Amended 04/16/2009*

**SPECIAL USE PERMIT.** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as "conditional use permits" or "special exceptions."

**STREET.** A road or highway which affords the principal means for vehicular traffic access to abutting property and which has been dedicated to public use. **STREET**, road and highway are synonymous.

**STREET LIGHTING.** Night time street illumination intensity meeting NCDOT requirements. Placed on town right-of-way so as not to interfere with traffic or property access.

**STRUCTURE.** Includes but not limited to a building, deck, swimming pool, bulkhead, dock, wall or fence, storage shed, tennis court, gazebo, and satellite antenna, but excluding specifically satellite antennas with dishes of 24 inches or less in diameter.

**TIMBER HARVESTING.** Timber Harvesting shall be defined as the cutting and removal of a quantity of timber: (i) for delivery of merchantable timber to market, or (ii) pursuant to a practice that reduces tree

- A. This chapter shall not repeal, annul, or impair any existing provisions of law, ordinance or rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises; provided, however, wherever the terms of this chapter require a greater width or size of yards, courts or other open spaces, or impose other higher standards than are required in any other statute or local ordinance or regulations, the provisions of this chapter shall govern.
- B. Wherever the provisions of any other statute, local ordinance or regulations require greater width or size yards, courts or other open space, or require a greater percentage of plot to be left unoccupied, or impose other higher standards than are required in this chapter, the provisions of the statute, local ordinance or regulation shall govern.
- C. All modifications heretofore granted by the Town Council shall remain in effect and binding.
- D. This chapter shall remain in effect insofar as required for the initiation of any proceedings against any violations and for the prosecution of violations heretofore commenced.
- E. Nothing in this chapter shall modify or repeal any deed restriction on land within the area of jurisdiction of this chapter, but no deed restriction shall constitute a basis for failing to comply with the chapter.

#### **§ 15.02.024 DEVELOPMENT APPROVALS RUN WITH THE LAND.**

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Chapter attach to and run with the land.

### **ESTABLISHMENT OF DISTRICTS**

#### **§ 15.02.035 GENERALLY.**

- A. For the purpose of this chapter, the town is divided into use districts.
- B. Each type of district is listed with permitted uses and dimensional requirements.
- C. Any use not specifically permitted by this chapter is prohibited.

#### **§ 15.02.036 RESIDENTIAL DISTRICTS.**

<i>Use District</i>	<i>Permitted Uses</i>	<i>Dimensional Requirements</i>
R-20	Single Family Residential	20,000 square feet minimum lot area
R-20A		
R-15	Single Family Residential	15,000 square feet minimum lot area
PDR-SF	Planned Development Residential	Single family district is intended to provide for the unified development of permanent residential neighborhoods containing only single family detached dwellings. No tract shall be considered

**§ 15.02.042 PERMITTED USES FOR INSTITUTIONAL DISTRICTS.**

Permitted uses for Institutional Districts:

- A. Private clubs and lodges;
- B. Academic day or preparatory schools;
- C. Health related facilities; and
- D. Churches.

Penalty, see § 1.01.999

**§ 15.02.043 PERMITTED USES FOR BUSINESS DISTRICTS.**

Permitted uses for Business Districts:

- A. Commercial development for stores, personal services, banks, restaurants, social and business associations and offices; and
- B.
  - 1. Residential use in a business district is allowed as long as the use is incidental to the intended business use.
  - 2. Where more than 1 business is located on a property or within a structure, such as but not limited to, a strip mall or office complex, this residential allowance shall be applied to each individual business location within the property or structure.

Penalty, see § 1.01.999

**§ 15.02.044 PERMITTED USES FOR WILDLIFE PRESERVE DISTRICTS.**

Only development or other uses as are allowed by the United States Army Corps of Engineers and the North Carolina Department of Natural Resources and Community Development and for which required permits of the aforesaid agencies and/or the Town of River Bend have been issued.

Penalty, see § 1.01.999

**§ 15.02.045 PERMITTED USES FOR AGRICULTURAL DISTRICTS.**

Crop production, gardening, orchards, forestry and logging. Property that is located in the Town's extraterritorial planning and development regulation jurisdiction and that is used for bona fide farms purposes is exempt from the Town's zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to this section. Property that ceases to be used for bona fide farm purposes shall become subject to exercise of the Town's extraterritorial planning and development regulation jurisdiction under this Chapter.

Penalty, see § 1.01.999



**§ 15.02.046 ZONING MAPS.**

- A. The districts are bounded and defined as shown on a map entitled map of the Town of River Bend, Craven County, North Carolina which, with all explanatory matter thereon, hereby is adopted and made a part of this chapter.
- B. The zoning map shall be identified by the signature of the Mayor attested by the Town Clerk and shall bear the seal of the town under the following words: "This is to certify that this is the Official Zoning Map referred to in §§ 15.02.035 et seq. of the Zoning Chapter of the Town of River Bend, North Carolina," together with the date of adoption of this chapter.
- C. Zoning district maps, both current and prior, shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the local government.
- D. Development regulations adopted pursuant to this Chapter may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies. For these maps, a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the official promulgated state or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in subsection (C) of this section.

**§ 15.02.047 DISTRICT REQUIREMENTS.**

For convenience in the administration of this chapter, there is hereby established and made a part of this chapter the following schedule for the several districts setting forth minimum limitations and requirements. The requirements listed for each district as designated are subject to all provisions of this chapter and, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

<i>Schedule of District Requirements</i>										
	R-20	R-20A	R-15	PDR-MF	PDR-SF	ID	BD	WP	AGR	PD-BD
Min. Lot Area (SF)	20,000	20,000	15,000	-	6,500	20,000	20,000	-	-	20,000
District Size	-	-	-	5 acres	10 acres	-	-	-	-	4 acres
Density	-	-	-	*	†	-	‡	-	-	‡
Min. Front Lot Line (FT)	90**	90**	85**	50††	50††	-	100	-	-	100
Min. Bldg. Set Back (FT)	30	30	30	25	25	40	40	-	-	40



- e) Location of all existing buildings and structures;
- f) Location of all existing and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences and walls. Location, type and screening details for waste disposal;
- g) Locations, dimensions and sketches of all proposed signage;
- h) A planting and berm plan showing all existing natural features, trees and water resources, and all proposed changes to those features including size and type of plant material;
- i) Zoning district classifications of subject site and abutting properties;
- j) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, and curbing on the site;
- k) Elevation plans to a minimum scale of 1/8 inch equals 1 foot for all exterior facades of proposed or existing structures and additions;
- l) Approximate percentage of land to be covered by buildings;
- m) Proposed uses;
- n) Anticipated architectural style(s).

E. *Enforcement.*

1. The Zoning Administrator may revoke any zoning, special use, or conditional ~~use~~-zoning permit to insure compliance with the plan and stated conditions of approval.
2. The Zoning Administrator may also suspend any permit or license when work is not performed within 1 year of approval of the site plan.
3. The permit issuing authority may extend the 1 year prior for good cause.
4. Appeals to the decisions of the permit issuing authority may be made to the Board of Adjustment through procedures outlined in §§ 15.02.173 et seq. of this chapter.

F. *Design guidelines and performance standards.*

1. The following are the design guidelines and performance standards.
2. Exceptions to these guidelines may be granted by the Board of Adjustment after reviewing the petition of the developer along with the recommendations of the Zoning Administrator.
  - a) Required standards.
    - (1) For those developments abutting Highway 17, entrance shall be from Pirates Road or Efird Boulevard. An exception may be granted for any single property not directly connected to Pirates Road or Efird Boulevard.
    - (2)
      - (a) For all developments, each development under single ownership shall be limited generally to 1 driveway access to provide both ingress and egress.
      - (b) In cases where it is determined by the Zoning Administrator that more than 1 driveway access would provide a more efficient circulation pattern within the development and would promote improved traffic safety, 1 additional driveway access may be permitted.
    - (3)

## GENERAL DISTRICT REGULATIONS

### § 15.02.060 APPLICATION.

The regulations set forth in this subchapter shall affect all land, every building and every use of land and/or building existing at the time of the adoption of this chapter, and to new construction as follows.

- A. *New uses or construction.* After the effective date of this chapter, all new construction of buildings or structures and/or all use of land shall conform with the requirements for the district in which it is located.
- B. *Access and parking.* Each lot shall provide access to an approved street and shall provide adequate off-street parking. Each front lot line shall abut an approved street right-of-way line.
- C. *Completion of existing construction.* Nothing herein shall require any change in the plans, construction or designated use of a building actually under construction at the time of the passage of this chapter, or of a building for which a building permit has been issued and in which the entire building is completed within 1 year from the date of the adoption of this chapter.
- D. *Conforming uses or structures.* After the effective date of this chapter, any existing structures or uses of land or structures which then conform with the regulations for that district may be continued without specific permit, provided that any subsequent alteration or change in use shall conform with the requirements of this chapter.
- E. *Added territory.* All territory which hereinafter may be included within the town's jurisdiction either through annexation or extension of the town's extraterritorial area shall be classified into zoning districts determined by the Town Council, after the Town Council receives recommendations from the Planning Board and after advertised public hearing. The Town of River Bend must provide mailed notice to owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records, thirty days prior to the date of the extraterritorial jurisdiction (ETJ) hearing, and may hold one hearing (with single mailed notice) regarding ETJ and initial zoning amendment.

Penalty, see § 1.01.999

### § 15.02.061 PRINCIPAL AND ACCESSORY BUILDINGS.

- A. *Principal building.* No lot in any residential district shall be occupied by more than 1 principal building.
- B. *Manufactured home.* An off-frame manufactured home must meet the following additional requirements:
  - 1. Assembled on a permanent foundation consisting of a continuous perimeter weight bearing wall with storm ties embedded;
  - 2. Permanent underpinning of solid masonry;
  - 3. Permanent interior foundation support of solid masonry or its equivalent;

provide stability, such as is accomplished with a retaining wall; create a landscaping or ornamental effect.

C. Fences are a permitted use in all zoning districts, provided that:

1. No fences shall be allowed in any front yard.
2. Fences shall be limited to six (6) feet in height within any side or rear yard.
3. Fences shall be constructed of wood, brick, vinyl, ornamental iron or metal railing, chain link or stone. The exposed framing of each section of fence shall face the interior yard or property, e.g. the finished side shall face out.
4. The owner of the property on which the fence is located is required to maintain the fence in a safe condition and plumb (vertical) to the ground. For fences erected close to a property line, fence owners are advised to consider future access to the exterior side of the fence for maintenance.
5. Retaining walls over five (5) feet in height shall be designed and constructed under the responsible charge of a NC registered professional engineer.
6. Fences built in conjunction with electric or gas substations, public works facilities, public recreation facilities or other similar uses shall not exceed ten (10) feet in height without specific approval of the Town Manager.
7. No fence shall be constructed within or upon any street right-of-way. In addition, no fence shall be constructed within ten (10) feet of any street pavement.
8. No fence or wall shall alter or impede the natural flow of water in any stream, creek, drainage swale, ditch or similar drainage feature.
9. The exposed framing of each section of fence shall face the interior yard or property, e.g. the finished side shall face out.
10. In residential zoning districts, fences shall not be constructed of material which may be dangerous or hazardous to the public, such as barbed or razor wire or other similar materials except in association with those uses permitted as a special ~~exception~~use.
11. Fences constructed on or over utility easements are subject to be removed at the owner's expense subject to the terms of the easement.
12. Nothing in this section shall prevent the installation of temporary fences related to construction sites or sediment and erosion control. Temporary fences shall be removed within ten (10) days of the issuance of a certificate of zoning compliance for the project. For projects that do not require a zoning permit, temporary fences must be removed within (90) days of their installation. A temporary permit may be extended for thirty (30) days.
13. It is the responsibility of the fence owner to insure that the fence is installed on their property.
14. A zoning permit is required for the installation of any fence.

*Amended 09/21/17*

D. Visibility at intersections.



Temporary use of property for construction offices may be permitted and shall be limited to the construction site. Temporary construction offices shall be removed immediately upon completion or abandonment of construction.

Penalty, see § 1.01.999

#### § 15.02.066 WATER SUPPLY AND SEWAGE DISPOSAL.

- A. *Approval.* Each application for an initial zoning permit or a special ~~exception~~-use permit shall be accompanied with plans of the proposed method of water supply and sewage disposal. All new construction having available public and/or community water and/or sewage disposal systems upon payment of applicable tap-on and other user fees and charges shall provide for connection to the water systems and/or sewage disposal systems and in accordance with § 5.01.007 of this Code, remain connected to said system(s) as the sole means of supplying potable water to and/or wastewater removal from all improvements on the property. No excavation for or construction of any building or use of land shall be commenced until approval of the Craven County Health Department is noted on the plans and an initial zoning permit is issued.

*Amended 06/18/2009*

B. *Method to be specified.*

1. Any application shall specify the method or methods to be used and shall describe any special conditions to be met.
2. Subject to the provisions of division (A) above requiring connection to available public and/or community and/or sewage disposal systems, the methods and the approvals required, include the following:
  - a) Connection to public water or sewage disposal systems operated by the town, or other governmental unit or agency with connection approval by an authorized officer of each system.
  - b) Connection to community water or sewage disposal systems operated by a person, firm or corporation other entity other than a governmental unit or agency with connection approval by an authorized officer of each system.
  - c) Installation of other than public water or sewage disposal systems of each appropriate authorizing agency.

Penalty, see § 1.01.999

#### § 15.02.067 HOME OCCUPATIONS.

- A. Customary occupations and offices of a professional person such as a physician, dentist, architect, lawyer, engineer, artist, musician, real estate, insurance agent, accountant and the like, are permitted, provided the use is clearly incidental and subordinate to the residential use



the appraised valuation of the structure prior to damage and/or renovation, may be done only in accordance with a zoning permit issued pursuant to this section.

2. For purposes of division (E)(1) above:

a) The cost of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish the renovation, repair, or replacement.

b) The cost of renovation or repair or replacement shall mean the total cost of all the intended work, and no person may seek to avoid the intent of division (E)(1) by doing the work incrementally.

c)

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

(2) It shall be the responsibility of the property owner to supply the town with the appraised valuation of the property. The valuation shall include the necessary documentation to support the valuation.

(3) The Zoning Administrator may issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:

(a) No violation of division (D) above will occur; and

(b) The permittee will comply to the extent possible with all provisions of this chapter applicable to the existing use except that the permittee shall not lose his right to continue a non-conforming use, except for those reasons outlined in division (G) below with a requirement of this division is not possible if compliance cannot be achieved without adding additional land to the lot where the non-conforming situation is maintained or moving a substantial structure that is on a permanent foundation.

F. Change in use of property where a non-conforming situation exists.

1.

a) A change in use of property that is sufficiently substantial to require a new zoning permit (§ 15.02.166) or special ~~exception~~-use permit (§§ 15.02.120 et seq.) may not be made except in accordance with divisions (F)(2) and (3) below.

b) However, this requirement shall not apply if only a sign permit is needed.

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

3. If the intended change in use is to a principle use that is permissible in the district where the property is located, but all of the requirements of this chapter applicable to that use cannot

be complied with, then the Zoning Administrator may issue a permit authorizing the change. If the Zoning Administrator finds, in addition to any other findings that may be required by this chapter, that:

- a) The intended change will not result in a violation of division (D) above; and
  - b) All of the applicable requirements of this chapter that can be complied with will be complied with. Compliance with a requirement of this chapter is not possible if compliance cannot be achieved without adding additional land to the lot where the non-conforming situation is maintained or moving a substantial structure that is on a permanent foundation. And in no case may an applicant be given permission pursuant to this division to construct a building or add to an existing building if additional non-conformities would thereby be created.
4. A change in use to another principal use that is also non-conforming is not permissible.
- G. Abandonment and discontinuance of non-conforming situations.
1. When a non-conforming use is discontinued for a continuous period of 180 days, the property involved may thereafter be used only for conforming purposes.
  2. If a non-conforming use is maintained in conjunction with a conforming use, discontinuance of a non-conforming use for the required 180 day period shall terminate the right to maintain it thereafter.
  3. When a structure or operation made non-conforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180-day period for purposes of this division begins to run at the effective date of this chapter.
- H. Completion of non-conforming projects.
1. All non-conforming projects on which construction was begun at least 180 days before the effective date of this chapter as well as all non-conforming projects that are at least 25% completed in terms of the total expected cost of the project on the effective date of this chapter may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this division shall apply only to the particular phase under construction.
  2. Except as provided in division (H)(1) above, all work on any non-conforming project shall cease on the effective date of this chapter, and all permits previously issued for work on non-conforming projects shall be revoked as of that date. Thereafter, work on non-conforming projects may begin or may be continued only pursuant to a zoning, special ~~exception~~-use or sign permit issued in accordance with this section by the individual or Board authorized by this chapter to issue permits for the type of development proposed. The Zoning Administrator may issue a permit if he finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this chapter and thereby would be unreasonably



prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the Zoning Administrator shall be guided by the following, as well as other relevant considerations.

- a) All expenditures made pursuant to a validly issued and unrevoked building, zoning, sign or a special ~~exception~~-use permit shall be considered as evidence of reliance on the land use law that existed before this chapter became effective.
  - b) Except as provided in division (H)(2)(a) above, no expenditures made more than 180 days before the effective date of this chapter may be considered as evidence of reliance on the land use law that existed before this ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.
  - c) To the extent that expenditures are recoverable, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.
  - d) To the extent that a non-conforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made these expenditures.
  - e) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of:
    - (1) The total estimated cost of the proposed project; and
    - (2) The ordinary business practices of the developer.
  - f) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.
  - g) Even though a person had actual knowledge of a proposed change in the land use affecting a development site, the Zoning Administrator may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed chapter. The Zoning Administrator may find that the developer did not proceed in an attempt to undermine the proposed chapter if he determines that:
    - (1) At the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development; and
    - (2) The developer had legitimate business reasons for making expenditures.
3. The Zoning Administrator shall not consider any application for the permit authorized by division (H)(2) above that is submitted more than 60 days after the effective date of this

## § 15.02.080 OFF-STREET PARKING REQUIREMENTS.

- A. There shall be provided at the time of the erection of any building permanent off-street parking space in the amount specified by this section.
- B. The parking space may be provided in a parking garage or properly paved open area.
- C. Except for residential parking spaces, all the parking area shall be in accordance with North Carolina State Department of Transportation standards.
  1. Each application for an initial zoning permit shall include information as to the location and dimension of off-street parking and loading space and the means of ingress and egress to the space. This information shall be sufficient detail to enable a determination whether or not the requirements of this section are met.
  2. The required parking space for any number of separate uses may be combined in 1 lot but the required space assigned to 1 use may not be assigned to another use, except that  $\frac{1}{2}$  of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.
  3. If the off-street parking space required by this chapter cannot be reasonably provided on the same lot on which the principal use is located, the Board of Adjustment may, as a special exception use, permit the space to be provided on any land within 400 feet of the main entrance to the principal use, provided the land is in association with the principal use and is zoned for the principal use involved. The land shall be used for no other purpose so long as no other adequate provision for parking space meeting the requirements of this chapter has been made for the principal use and is zoned for the principal use involved.
  4.
    - a) The minimum number of required off-street parking spaces shall be calculated from the following table. In the case of a building or use not expressly provided for, the number of off-street spaces shall be the same as for a similar use of inclusive category which is provided for.
    - b) Where there is more than 1 use in a single structure or on a single tract, or 2 or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses.
  5. The following parking requirements shall be applied as indicated in the schedule of district use regulations of this chapter.

Minimum Off-street Parking Facility Requirements	
Category	Parking Spaces Required
A	2 parking spaces per dwelling unit
B	2 parking spaces per dwelling unit plus 1 for each 4 dwelling units
C	1 parking space per room plus 10% of the number of employees



Minimum Off-street Parking Facility Requirements	
Category	Parking Spaces Required
D	3 parking spaces in addition to residence requirements
E	1 parking space for each 4 seats in the principal place of assembly
F	Parking space requirements are conditional with individual special <del>exception</del> -use permits granted
G	1 parking space for each 200 square feet of gross floor area
H	1 parking space for each 600 square feet of gross floor area
I	1 parking space for each 1,000 square feet of gross floor area
J	2 parking spaces for the lot plus 1 parking space for each service bay area

Penalty, see § 1.01.999

#### § 15.02.081 OFF-STREET LOADING REQUIREMENTS.

A.

1. The number of off-street loading berths required by this section shall be considered as the absolute minimum.
2. For purposes of this section, an off-street loading berth shall have minimum plan dimensions of 12 feet by 25 feet and 14 feet overhead clearance with adequate means for ingress and egress.

B. For non-residential structures containing not more than 25,000 square feet of gross floor area, 1 berth shall be required.

C. For non-residential structures containing 25,000 or more square feet of gross floor area, the number of berths specified in the table below shall be provided.

Square Feet of Gross Floor Area	Required Number of Berths
25,000 – 40,000	1
40,000 – 100,000	2
100,000 – 160,000	3
160,000 – 240,000	4
240,000 – 320,000	5
320,000 – 400,000	6
Each 90,000 and above 400,000	1

Penalty, see § 1.01.999

**§ 15.02.097 SIGNS EXEMPT FROM REGULATION.***Amended 04/18/2013*

The following signs are exempt from regulation under this subchapter except for the regulations embodied in § 15.02.107:

- A. Signs not exceeding 2 square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as signs giving property identification names or numbers or names of occupants, signs on mailboxes or paper tubes and signs posted on private property related to private parking or warning the public against trespassing or danger from animals.
- B. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs and traffic, directional or regulatory signs.
- C. Official signs of an informational nature erected by public utilities.
- D. Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- E. Signs directing and guiding traffic on private property that do not exceed 2 square feet each and that bear no advertising information.
- F. Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.

**§ 15.02.098 CERTAIN TEMPORARY SIGNS; PERMIT EXEMPTIONS AND ADDITIONAL REGULATIONS.***Amended 04/18/2013*

- A. The following temporary signs are permitted without a zoning, special use, conditional ~~use~~ zoning or sign permit. However, these signs shall conform to the requirements set forth below as well as all other applicable requirements of this subchapter except those contained in §§ 15.02.101 and 15.02.103.
  - 1. Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease or rent, together with information identifying the owner or agent. Real estate signs advertising residential properties shall not exceed 4 square feet in area and shall not be illuminated. Real estate signs advertising commercial property shall not exceed 32 square feet in area and shall not be illuminated. All real estate signs shall be removed within 10 days of sale, lease or rental. Only 1 real estate sign is permitted for each property with the exception of properties abutting waterways or the golf course, which may have 2 signs.
  - 2. Construction site identification signs. These signs may identify the project, the owner or the developer, architect, engineer, contractor, and subcontractors and funding sources and may contain related information. Not more than 1 sign may be erected per site and may not exceed 32 square feet in area. These signs may be erected no more than 30 days prior to the

- F. All signs not properly maintained and determined to be a nuisance by the Zoning Administrator are subject to repair and/or removal by the town at the expense of the owner of the sign. The sign owner will be provided with written notice by the town 10 working days prior to the sign's removal. Furthermore, whenever an outdoor advertising structure has outlived any useful purpose for which it was intended, it shall be removed forthwith.
- G. No sign may be erected on town-maintained or private rights-of-way so that by its location, color, size, shape, nature or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.
- H.
  - 1. Signs on the town's water towers are permitted.
  - 2. The water tower sign may only identify the Town of River Bend and should not be more than 10% of the total surface area of the vessel containing the water.
- I.
  - 1. In addition to signs already permitted, churches, schools and other non-commercial institutions may have 1 on-site bulletin board not exceeding 12 square feet in area.
  - 2. The bulletin board may be illuminated, shall be set back a minimum of 15 feet from the right-of-way and shall not exceed 10 feet in height.
- J. For each lot located in an area zoned ID, 1 sign or bulletin board not exceeding 54 square feet in area and 15 feet in height measured from the grade of the street from which access to the property is provided, may be erected.
- K. Violations of any provision of this section shall be subject to all penalties under this chapter, as provided for in § 1.01.999.

Penalty, see § 1.01.999

**Cross-reference:** General District regulations, see § 15.02.060 et seq.

## SPECIAL ~~EXCEPTION~~-USE REGULATION

### § 15.02.120 GENERAL REGULATIONS.

- A. Permission may be granted by the Board of Adjustment for the establishment of uses listed as special ~~exception~~-uses (SEU) in the district use regulation tables in this subchapter, after Planning Board review and recommendations and after a public hearing held by the Board of Adjustment. And further, that the Board of Adjustment finds that:
  - 1. The proposed use does not affect adversely the general plans for the physical development of the town as embodied in these regulations or in any plan or portion thereof adopted by the Planning Board and/or the Town Council;
  - 2. The proposed use will not be contrary to the purposes stated in these regulations;
  - 3. The proposed use will not affect adversely the health and safety of residents and workers in the zoned area;



4. The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses;
  5. The proposed use will not be affected adversely by the existing uses;
  6. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of the use;
  7. The proposed use will not constitute a nuisance or hazard because of number of persons who will attend or use these facilities, vehicular movement, noise or fume generation or type of physical activity;
  8. The standards set forth for each particular use for which a permit may be granted have been or will be met;
  9. The proposed use shall be subject to the minimum area, setback and other dimensional requirements of the zoning district in which it will be located; and
  10. The proposed use shall be subject to the off-street parking and service requirements of these regulations.
- B. The Board of Adjustment shall impose or require any additional restrictions and standards as may be necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood.
- C. Whenever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions or restrictions upon which the permit was granted are not being complied with, the Board shall rescind and revoke the permit after giving due notice to all parties concerned.
- D. If construction of a use authorized by a special ~~exception~~-use permit does not begin within 6 months of the time the permit is issued, the permit shall be revoked.

Penalty, see § 1.01.999

#### § 15.02.121 APPLICATION FOR SPECIAL ~~EXCEPTION~~-USE PERMITS.

- A.
1. An application for special ~~exception~~-use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator.
  2. If rezoning is to be requested in connection with the request for a special ~~exception~~-use, the request shall be made concurrent with the application for the special ~~exception~~-use.
- B. A fee shall be paid the Town of River Bend for each application for a special ~~exception~~-use permit. In addition, costs for retaining legal, planning, engineering and other technical or professional services in connection with the review of special ~~exception~~-use permit applications may be charged to the applicant.

Penalty, see § 1.01.999

#### § 15.02.122 REVIEW AND APPROVAL OF SPECIAL ~~EXCEPTION~~-USES.

- A.
  - 1. The application forms for a special ~~exception~~-use permit shall be transferred along with required plans, plats and the like to the Planning Board by the Zoning Administrator 7 days before a regularly scheduled Planning Board meeting so that the application can be placed on the Board's agenda.
  - 2. At this meeting, the owner of the property for which the special ~~exception~~-use is sought or his agent shall appear.
- B. The Planning Board shall review the application for details, where applicable, of the site, situation, existing and proposed structures, architectural plans, neighboring land and water uses, proposed parking areas, driveway locations, highway access, traffic generation and circulation potential, drainage, waste disposal, water supply systems and the effects of the proposed use, structure, operation and potential changes in water quality, shoreland cover, natural beauty and wildlife habitat.
- C.
  - 1. The Planning Board shall consider recommending conditions that may be placed in the granting of the special ~~exception~~-use permit by the Board of Adjustment.
  - 2. These conditions may include items such as landscaping, architectural design, type of construction, construction commencement and proposed completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, performance standards, street dedication, certified survey maps, floodproofing, ground cover, sedimentation control from the project construction, terraces, stream bank protection, planting of buffer screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, yard sizes or additional parking.
- D. In addition, the Planning Board shall check for compliance of the requested special ~~exception~~ use with all other relevant provisions of this subchapter, such as lot dimensional requirements, building heights, parking and loading standards.
- E. The Planning Board shall consider the application at the first regular meeting of the Planning Board after receiving the completed application. Within 45 days after the meeting at which the application is considered, the Planning Board shall make its written recommendations and pass them on to the Board of Adjustment.
- F. The Zoning Administrator shall set a date and advertise for Board of Adjustment public hearing. The Board of Adjustment shall review the application and all recommendations from the Planning Board.
- G. The Board of Adjustment shall approve or deny the application following a public hearing provided for in division (F) above.
- H. After approval or conditional approval of the special ~~exception~~-use by the Board of Adjustment, the Board shall notify the Zoning Administrator of the approval. Notification shall be by a written letter signed by the Chairperson of the Board of Adjustment, and a copy of the approval letter shall be forwarded to the special ~~exception~~-use permit applicant and the Planning Board

Chairperson. Applicant/landowner must give written consent to conditions related to the special use permit to ensure enforceability.

I.

1. Rejection of an application for a special ~~exception~~-use permit shall be recorded in the minutes of the Board of Adjustment meeting during which the decision was made.
2. Notification of the rejection or denial of an application for a special ~~exception~~-use permit shall be a letter signed by the Chairperson of the Board of Adjustment.
3. The letter shall state reasons for denial and reference the specific sections or paragraphs in this chapter that would be violated if the special ~~exception~~-use were granted.
4. The denial letter shall be forwarded to the applicant by certified or registered mail and copies of the letter shall be forwarded to the Chairperson of the Planning Board and the Zoning Administrator.
5. One copy shall be retained in the files of the Board of Adjustment.

Penalty, see § 1.01.999

#### § 15.02.123 SPECIFIC REQUIREMENTS FOR SOME SPECIAL ~~EXCEPTION~~-USES.

##### A. *Accessory building in Business Districts (BD).*

1. May be allowed in the event that state or federal regulations require storage of flammable or other dangerous materials outside of the principal building and where these materials are necessary for the principal use to be continued.
2. Accessory building shall not be allowed in the front yard.

##### B. *Churches.*

1. Minimum side and rear yards of at least 50 feet.
2. All buildings and related uses shall be no closer than 25 feet from the nearest property line.

##### C. *Day care centers and nurseries.* Day care centers or nurseries shall comply with the G.S., Chapter §110, Article 7, which governs the licensing of day care facilities.

##### D. *Hospitals, nursing homes and/or extended medical facilities.* Side, front and rear yards shall be at least 50 feet.

##### E. *Schools, public or private.*

1. Minimum side and rear yards of at least 50 feet.
2. All accessory buildings and related uses shall be at least 25 feet from the nearest property line.
3. An off-street loading and unloading area for vehicles carrying pupils shall be provided.

##### F. *Service stations and other automotive-oriented business establishments.* Due to the nature of the materials handled, the light, noise and other nuisances that sometimes are related to service stations, automobile repair facilities, automobile washing facilities and similar establishments catering to the needs of the motoring public, certain minimum standards for development of these business uses are established as follows:



1. A buffer shall be provided along all property lines of the uses which abut a residential district or lot which is occupied by a residential use;
  2. All gasoline pumps and other stationary equipment shall be at least 24 feet off the edge of pavement and 12 feet off the edge of right of way; and
  3. All areas subject to daily or frequent use of vehicles shall be paved.
- G. *Janitorial supplies.* Due to the nature of the materials handled which could be a safety hazard, the business owner must demonstrate strict control of chemical supplies by showing capability to comply with all federal and state regulations.

Penalty, see § 1.01.999

#### § 15.02.124 DISTRICT USE REGULATIONS.

For convenience in the administration of this chapter, there hereby is established and made a part of this chapter the following schedule of district use regulations.

SCHEDULE OF DISTRICT USE REGULATIONS									
<b>KEY:</b> <b>P</b> – Use permitted by right <b>SE-SU</b> – Special <del>exception</del> -use permitted upon approval by Board of Adjustment after recommendation of the Planning Board <b>Blank/Unlisted</b> – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Accessory Building	P	P	P	P	SESU	SESU	SESU	P	
Adult Day Care					P	P	P		G
Bakery, Retail						P	P		G
Financial Services						P	P		G
Barber Shop/Beauty Shop						P	P		G
Boats and Trailer Sales						SESU	SESU		G
Cabinet, Woodworking or Upholstery Shops						P	P		G
Child Day Care						SESU			
Churches	SESU	SESU	SESU	SESU	P	SESU	SESU		E

SCHEDULE OF DISTRICT USE REGULATIONS									
<b>KEY:</b> <b>P</b> – Use permitted by right <b>SE-SU</b> – Special <del>exception</del> use permitted upon approval by Board of Adjustment after recommendation of the Planning Board <b>Blank/Unlisted</b> – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Clubs and Lounges, Private					P	SE-SU	SE-SU		F
Clothing Store						P	P		G
Computer Sales and Service						P	P		G
Dairy Bar and Ice Cream Parlors						P	P		G
Drug Store						P	P		F
Dry Cleaners/Drop Off/Pick Up Only						P	P		G
Dwellings, Single- Family	P	P	P	P		SE-SU			A
Dwellings, 2-Family				P		SE-SU			A
Dwellings, Multi- Family				P		SE-SU			A
Fire Department Buildings	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU		F
Fitness Center						P	P		G
Florists/Gift Shop						P	P		G
Furniture Store						P	P		G
Golf Course	SE-SU	SE-SU	SE-SU	SE-SU	P	SE-SU	SE-SU		F
Grocery Store						P	P		G
Hardware Sales						P	P		G
Home Occupations	P	P	P		P				G

SCHEDULE OF DISTRICT USE REGULATIONS									
<b>KEY:</b> <b>P</b> – Use permitted by right <b>SE-SU</b> – Special <del>exception</del> -use permitted upon approval by Board of Adjustment after recommendation of the Planning Board <b>Blank/Unlisted</b> – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Jewelry and Watch Repair						P	P		G
Libraries	SE-SU	SE-SU	SE-SU	SE-SU		P	P		G
Marina						P			G
Nursing Home and Rest Home					P				G
Office for Business, Professional and Personal Services						P	P		G
Pet Shops (excluding Veterinary Services)						P	P		G
Pharmacy						P	P		G
Photo Shop/Supply						P	P		G
Police Station	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU		F
Public Enterprise**	SE-SU	SE-SU	SE-SU	SE-SU		SE-SU	SE-SU		F
Public Utility	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU		F
Restaurants					P	P	P		F
Schools	SE-SU	SE-SU	SE-SU	SE-SU	SE-SU				F
Service Station						SE-SU	SE-SU		J
Shoe Sales and Repair						P	P		G
Sporting Goods Sales						P	P		G



SCHEDULE OF DISTRICT USE REGULATIONS									
<b>KEY:</b> P – Use permitted by right <u>SE-SU</u> – Special <del>exception</del> use permitted upon approval by Board of Adjustment after recommendation of the Planning Board Blank/Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Storage Rental Units/Areas						P	P		G
Travel Agency						P	P		G
Utility Tanks, Pumps, Electrical Substations & Related Services	<u>SE-SU</u>	<u>SE-SU</u>	<u>SE-SU</u>	<u>SE-SU</u>	<u>SE-SU</u>	<u>SE-SU</u>	<u>SE-SU</u>	<u>SE-SU</u>	
Wholesale and/or Retail Janitorial Sales & Services						<u>SE-SU</u>	<u>SE-SU</u>		F
Youth Center					P	P	P		G
*Parking code described in §15.02.080 ** As defined by G.S. § 160A-311									

Penalty, see § 1.01.999

Amended 11/18/10

#### § 15.02.125 CONTROL OF BACKFLOW AND CROSS-CONNECTIONS.

##### A. Purpose.

1. The purpose of this section is to protect the public potable water supply of the town from the possibility of contamination or pollution by isolating within the consumer's internal distribution system(s) or the consumer's private water system(s) such contaminants or pollutants which could backflow into the public water system.
2. This section shall apply to all users connected to the town's public potable water supply regardless of whether the user is located within the town limits or outside the town limits.

- B. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AIR-GAP SEPARATION.** An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air-gap vertical separation shall be at least double the diameter of the supply pipe. In no case shall the air-gap be less than 1 inch.

- be and remain the property of the town. Prior to installation of any such irrigation meter, the customer shall pay to the town all charges specified in the schedule of fees established (and as modified from time-to-time) by the Town Council.
- C. *Other customers.* Except as provided in subsection (b) hereof, any other utility customer of the town in good standing may request the town to install and operate a town-approved irrigation meter at any property owned by such customer to which the town provides utility services, pursuant to procedures established (and as modified from time-to-time) by the Town's Water Resources Department. All such irrigation meters, meter boxes, pipes and other equipment furnished or used by the town in installing any such irrigation meter shall be and remain the property of the town. Prior to installation of any such irrigation meter, the customer shall pay to the town all charges specified in the schedule of fees established (and as modified from time-to-time) by the Town Council.
  - D. *Capital Investment Fees.* Prior to installation of any irrigation meter pursuant to this section, any new water customer shall pay to the town a Capital Investment Fee (CIF) to cover a portion of the costs associated with providing additional water capacity to such customers, in the amount specified in the schedule of fees established (and as modified from time-to-time) by the Town Council and approved by the town council. Such CIF shall be payable in addition to (i) all charges specified in the schedule of fees established (and as modified from time-to-time) by the Town Council. Payment of capital fees does not relieve the owner of the obligation to build water line extensions in accordance with the town's ordinances, regulations, rules, policies and procedures. In no instance shall a property owner be charged a CIF for a potable water meter and a second CIF for an irrigation water meter.

## PLANNED DEVELOPMENT PROJECT

### § 15.02.135 PLANNED DEVELOPMENT AUTHORIZATION.

- A. The Town Council may authorize the issuance of conditional ~~use-zoning~~ permits for Planned Developments in accordance with the procedures and development standards specified in this subchapter.
- B. Whenever the Town Council shall find, in the case of any permit granted pursuant to the provisions of the regulations, that any of the terms, conditions or restrictions, upon which the permit were granted are not being complied with, the Town Council shall have the authority to rescind, after granting the permittee notice and hearing.

### § 15.02.136 PLANNED DEVELOPMENTS, GENERALLY.

- A. *Intent.*
  - 1. Within districts now existing or which hereafter may be created, it is intended to permit and encourage, on application and approval of detailed development plans, establishment of



new Planned Developments for specified purposes where tracts of land suitable in location, area and character are to be planned and developed as a whole and in a unified manner. Suitability of these tracts for Planned Development purposes shall be determined primarily by reference to the Town of River Bend land development plan and the developer's master land use plan as approved by the Town Council.

2. Where Planned Developments are permitted, regulations adopted for unified developments are intended to accomplish the purposes of zoning and subdivision regulations, and other applicable regulations, to the same degree as in cases in which those regulations are intended to control development on a lot-by-lot rather than unified basis.

**B. Planning Board action.**

1. The Planning Board shall review and take action on each preliminary plat within 45 days after first consideration by the Planning Board. First consideration shall be at the next regularly scheduled meeting of the Planning Board that follows at least 14 days after the plat is submitted. The Planning Board, Community Appearance Commission, Public Works Advisory Board, Parks and Recreation Board, Waterways/Environment Board and the Town Council shall review the master land use plan preliminary and final site plans for the proposed planned development for conformity with the Town of River Bend land development plan. The other Town Boards will give their recommendations before the next Planning Board meeting.
2. If there is no response from the other Town Boards, the Planning Board will assume that there are no comments. The Planned Development shall provide appropriate relationships between uses around the boundaries and uses within the Planned Development so as to insure that no property shall be adversely affected.

**C. Basis for control.** The approved master land use plan, preliminary and final site plans shall be the basis for control of land development within Planned Developments.

**D. Permit choice.** If an application made in accordance with local regulation is submitted for a development approval required pursuant to this Chapter and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Penalty, see § 1.01.999

**§ 15.02.137 APPLICATION REQUIREMENTS FOR PLANNED DEVELOPMENTS.**

Applications for development approvals may be made by the landowner, a lessee or a person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement



[holder may also apply for development approval for such development as is authorized by the easement.](#)

A. *Step I - Master land use plan.*

1. *Applicant action.*

- a) The applicant shall submit 10 copies of the master land use plan and supplementary materials to the Zoning Administrator at least 15 days before the regular meeting of the Planning Board at which the master land use plan is to be considered. The Zoning Administrator shall place the master land use plan on the agenda of the next regular meeting of the Planning Board and contact the Planning Board Chairperson as to the receipt of the master land use plan, and shall present the Planning Board with copies of the plan and materials.
- b) If rezoning is a prerequisite of Planned Development approval, the Zoning Administrator will advertise for a public hearing and follow the standard zoning ordinance amendment requirements.

2. *Information required of the applicant.* The information required for presentation by the developer shall include the following:

a) For all Planned Developments, a master land use plan.

- (1) The master land use plan shall be mapped to 1 inch = 100 feet scale and show the proposed development and how it relates to its surroundings. The map(s) should show where major building types and approximate densities are anticipated. In addition, the following information shall be mapped at this same scale:
  - (a) Acreage of tract;
  - (b) Major traffic, parking and pedestrian circulation plans within the Planned Development;
  - (c) Major physical features including soils, topography, existing structures and use, drainage, flora and fauna and other physical information to help describe the suitability of the site for Planned Development;
  - (d) Ownership arrangements for the Planned Development, both present and planned;
  - (e) Planned open space, parks and active recreation areas to be preserved or developed either by the developer or by dedication to the town of their development as required by the Subdivision Chapter;
  - (f) Sketch plans for construction of water and sewage disposal systems to comply with town standards, and the appropriate state and county authorizing agency;
  - (g) Sketch plans for access of firefighting equipment and refuse disposal such as compactors and waste disposal dumpsters;
  - (h) Sketch plans for underground utilities and lighting to comply with state and town requirements (for additional details, see § 15.01.080); and
  - (i) Sketch plans for proposed drainage plan which shall be in conformity with the North Carolina Stormwater Site Planning Guidance Manual to show how the

- (5) A preliminary architectural design sketch of how a typical building will look after completion; plus a preliminary architectural design sketch of how the whole project will look after completion, or a photographic display of a similar completed development that the applicant has already been involved with, or equivalent information as allowed by the Planning Board.
  - (6) Copies of any declarations to be recorded pursuant to the North Carolina Unit Ownership Act being G.S. §§ 47-A et seq.
  - c) *Supplementary materials to be provided for:*
    - (1) Condominium projects or similar cooperative ownership projects. A copy of the proposed declaration of bylaws and covenants and method of changing outdated bylaws and covenants;
    - (2) Townhouses or rowhouses in condominiums projects. A copy of the proposed easements for the common walls and a copy of the proposed deed for sale of a unit; and
    - (3) Rental or leased units or buildings. A declaration by the developer or owner of the provisions for maintaining the development.
3. *Town of River Bend actions.*
- a) Before recommending the approval of any preliminary site plan, the Planning Board may make reasonable additional requirements in cooperation with the developer, and concerning, but not limited to, the limitations of use, unit densities, landscaping, paving and location of access ways, taking into consideration the character of the surrounding area so as to provide proper transition of land uses that will fit into the town's land development plan.
  - b) The preliminary site plan shall be checked by the Planning Board for compliance of design standards and other requirements of this chapter and the Town of River Bend Subdivision Chapter.
  - c) The Planning Board shall submit all materials and its recommendations for approval or disapproval to the Town Council. The Town Council shall review and take action on each preliminary site plan within 45 days after it has been received from the Planning Board. Approvals shall be issued in writing and may contain a provision that the development shall comply with all applicable State and local laws. The Town Council may issue development approvals in print or electronic form. If issued exclusively in electronic form it shall be protected from further editing once issued. If the preliminary site plan is disapproved, the Town Council shall specify the reasons for the action in writing. One copy of the reasons shall be retained by the Town Council, 1 copy shall be given to the Planning Board, and 1 copy shall be given to the developer. If the preliminary site plan is disapproved, the developer may make necessary changes and submit a revised preliminary site plan or appeal the decision of the Town Council to the Board of Adjustment.
- C. Step III - final plat. Shall comply with the Town of River Bend Subdivision Chapter.



3. The pitch of the roof has a minimum vertical rise of 3 feet for each 12 feet of horizontal run (3:12) and the roof is finished with a type of shingle that is commonly used in standard residential construction;
  4. All roof structures shall provide an eave projection of no less than 6 inches, which may include a gutter;
  5. The exterior siding consists of material comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
  6. The manufactured home is setup in accordance with the standards set by the North Carolina Department of Insurance and a continuous masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
  7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored to the ground; and
  8. The moving hitch, wheels and axles and transporting lights have been removed.
- B. It is the intent of these criteria to insure that a manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single family dwelling.

Penalty, see § 1.01.999

## ADMINISTRATION OF THE ZONING CHAPTER

### § 15.02.160 CONFLICTS OF INTEREST

- A. Governing board. A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- B. Appointed boards. Members of appointed boards shall not vote on advisory or legislative decisions regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.



- C. *Administrative staff.* No staff member shall make a final decision on an administrative decision required by this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.
1. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
  2. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- D. *Quasi-judicial decisions.* A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- E. *Resolution of Objection.* If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- F. *Familial relationship.* For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

#### **§ 15.02.165-164 ZONING ADMINISTRATOR.**

A Zoning Administrator shall be appointed in accordance with § 3.01.078 of this Ordinance, to administer and enforce this chapter. He may be provided with the assistance of other persons as the Town Council may approve. If he finds that any of the provisions of this chapter are being violated, he shall notify in writing the person or persons responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. In reviewing a permit, the Zoning Administrator shall consult a registered professional engineer, licensed to practice in North Carolina, when necessary.

*Amended 09/17/2009*

#### **§ 15.02.166-165 DUTIES OF ZONING ADMINISTRATOR.**

- I. Serving notice to owner of any non-compliance with approved plans, issuing stop-work orders for work in progress until corrective actions are initiated or revoking the permits where satisfactory resolution of a dispute cannot be reached.
- J. Monitoring the construction of buildings/projects to assure that grading and drainage features are built as planned and that as built survey data is taken to verify the elevation of the lowest habitable floor of buildings located in Zone A on the flood insurance rate map where data is not already on file.
- K. Conducting hearings and taking other prescribed actions related to violations.

#### § 15.02. ~~167~~ 166 ENFORCEMENT.

A. Notices of violation. When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal deliver, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-11-23, 160D-12-6, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-4-5.

~~A.~~ B. Inspection of work. The Zoning Administrator shall make as many inspections as he determines are necessary to ensure the work is being done according to the provisions of any permit. The Zoning Administrator has a right to enter on any premises at any reasonable hour for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

~~B.~~ C. Stop-work orders. When an area is being developed or a building is being constructed, renovated or added to in violation of this chapter, the Zoning Administrator may order the work to be stopped immediately. The stop order shall be in writing and directed to the owner. It shall state the specific work to be stopped, the specific reason for the stoppage and the conditions under which the work may be resumed.

~~C.~~ D. Revocation of permits. The Zoning Administrator may revoke and require the return of any permit issued in accordance with this chapter by notifying the permit holder in writing stating the reason for the revocation. Permits may be revoked for substantial departure from the approved permit plans or specifications, for refusal or failure to comply with the requirements of state or local laws or for false statements or misrepresentations made in securing the permit. The local government shall follow the same development review and



approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

- D-E.** *Failure to take corrective action.* If the owner of a building or property fails to take prompt corrective action, the Zoning Administrator shall give written notice by certified or registered mail to the owner's last known address or by personal services:
1. That the building or property is in violation of this chapter;
  2. That a hearing will be held before the Zoning Administrator at a designated place and time, not later than 30 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  3. That following the hearing, the Zoning Administrator may issue an order to alter, vacate or demolish the building or property or to take other corrective action as appears appropriate.

**E-F.** *Order to take corrective action.* If a hearing is held pursuant to the notice prescribed above, and the Zoning Administrator finds the building or property is in violation of this chapter, he shall issue an order in writing to the owner requiring the owner to remedy the violation within a period of up to 60 days. Where the Zoning Administrator finds there is imminent danger to life or other property, he is authorized to order that corrective action be taken in a shorter time.

**F-G.** *Appeal.* An owner who has received an order to take corrective action may appeal the order to the Town Council by giving notice of appeal in writing to the Zoning Administrator and the Town Clerk within 10 days following issuance of the order. The Town Council shall hear the appeal within a reasonable time and may affirm, modify or revoke the order, as long as the ruling is in compliance with the State of North Carolina Statutes.

**G-H.** *Changes to established drainage features.* The Zoning Administrator may issue a letter to any property owner who changes an established drainage feature stating that an unauthorized change has been made to drainage features on or abutting the property and that the feature must be restored within 30 days or the town could do so and bill the owner for the costs involved. Failure of the owner to pay the town for the work could result in a lien being placed on the property.

## **§ 15.02.167 PLANNING**

- A.** Preparation of plans and studies. As a condition of adopting and applying zoning regulations under this Chapter, a local government shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction.
- B.** Adoption and effect of plans. Plans shall be adopted by the governing board with the advice and consultation of the planning board. Adoption and amendment of a comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-6-1. Plans adopted under this Chapter may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including but not limited to the plans required by G.S. 113A-110. Plans adopted under this Chapter shall be advisory in nature without



independent regulatory effect. Plans adopted under this Chapter do not expand, diminish, or alter the scope of authority for development regulations adopted under this Chapter. Plans adopted under this section shall be considered by the planning board and governing board when considering proposed amendments to zoning regulations as required by G.S. 160D-6-4 and 160D-6-5.

If a plan is deemed amended by G.S. 160D-6-5 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed.

#### § 15.02.168 INITIAL ZONING PERMIT.

##### A. Generally.

1. Before the erection, construction or alteration of any building or structure, or part of same, or modification of or addition to a driveway or parking area, there shall be submitted to the Zoning Administrator by the owner or authorized agent an application for a zoning permit on appropriate forms to be furnished by the Zoning Administrator. Each application for a zoning permit shall be accompanied with a plat signed and sealed by a licensed surveyor drawn to scale showing accurate dimensions of the lot, applicable easements, elevations of site including driveways and drainage features, relationship to adjoining lots and accurate dimensions of the building to be so erected, constructed or altered, including its location on the lot, and the percentage of impervious surface. It shall be determined that the plan will be in conformance with the North Carolina Stormwater Site Planning Guidance Manual and will not adversely impact the flow of stormwater in areas outside the new project. This plan shall be signed and sealed by a professional engineer, licensed to practice in North Carolina.

*Amended 03/18/2010 and 07/18/2013*

2. Projects that involve modification of existing structures and, construction cost is estimated to be less than \$10,000, the Zoning Administrator shall review the proposed construction site and advise the applicant within 3 working days if a certified drainage plan will be required for the proposed project.
  - a) For additions to a developed property the percentage of impervious surface, before and after the project shall be listed.

*Added 03/18/10*

- b) On property improved before 02/28/2010, the impervious surface amount may be exceeded by 10 percent of the existing percentage if the following conditions apply:
    - (1) The increase was caused by implementation of changes to the Town's Ordinances.
    - (2) Other approved stormwater BMP's (Best Management Practices) are in place.
    - (3) Creates a significant hardship to the owner.
    - (4) Is approved in writing by the Town's Zoning Administrator.

*Added 07/15/2010*

for an extension of his original permit. Any extension will be for a period not to exceed six (6) months, by which time all work (including applicable site restoration) will be complete.

*Amended 09/17/2009*

#### **§ 15.02.172 REMEDIES.**

If a building or structure is erected, constructed, renovated or maintained, or any building, structure or land is in violation of this part or of any chapter or other regulation, the Zoning Administrator or any other appropriate authority of the Town of River Bend, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, renovation, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

### **~~BOARD OF ADJUSTMENT~~ BOARDS AND ORGANIZATIONAL ARRANGEMENTS**

*Added 08/20/2015*

#### **§ 15.02.173 PLANNING BOARDS**

- A. *Composition.* A local government may by ordinance provide for the appointment and compensation of a planning board or may designate one or more boards or commissions to perform the duties of a planning board. A planning board established pursuant to this section may include, but shall not be limited to, one or more of the following:
  - 1. A planning board of any size (with no fewer than three members) or composition deemed appropriate, organized in any manner deemed appropriate;
  - 2. A joint planning board created by two or more local governments pursuant to Article 20, Part 1, of Chapter 160A.
- B. *Duties.* A planning board may be assigned the following powers and duties:
  - 1. Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis;
  - 2. Facilitate and coordinate citizen engagement and participation in the planning process;
  - 3. Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
  - 4. Advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-6-4.
  - 5. Exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct;
  - 6. Provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board;
  - 7. Perform any other related duties that the governing board may direct.



## § 15.02. ~~173-174~~ CREATION; COMPOSITION. BOARDS OF ADJUSTMENT

A. Composition. A Board of Adjustment ("Board") is hereby established pursuant to G.S. ~~§160A-388~~ 160D-302, consisting of six (6) regular members and three (3) alternates. Five (5) regular members and two (2) alternates shall be citizens of the Town, appointed by the Town Council. One (1) regular member and one (1) alternate shall be residents of the Town's extraterritorial jurisdiction, and shall be appointed by the Craven County Board of Commissioners. Alternates shall serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member; however, vacancies shall be filled for the unexpired term only. All appointments to the Board shall be for a period of three (3) years commencing on July 1 of the year of appointment, and all members of the Board, including alternates, shall have equal rights, privileges and duties with regard to all matters within the Town and area of extraterritorial jurisdiction. Members of the Board may be compensated according to a schedule adopted by the Town Council from time to time. Members of the Board may be removed for cause by the Town Council upon written charges and after public hearing.

## §15.02. ~~174~~ MEETINGS; OFFICERS

B. Meetings; Officers. The Board shall elect one (1) of its members as Chair, one (1) of its members as a Vice-Chair, and shall appoint a Secretary and other subordinates as it deems in its best interest. The Board shall adopt any rules of procedure under which it will operate. Meetings of the Board shall be held at the call of the Chair, or in his absence the Vice-Chair, or at least two (2) members of the Board. All meetings of the Board shall be open to the public. The Board shall keep full and accurate minutes of its proceedings.

## §15.02. ~~175~~ POWERS AND DUTIES

C. Powers and Duties. The Board shall have the following powers and duties:

1. *Administrative Review.* To hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of this Chapter.
2. *Interpretation.* To interpret the terms of this Chapter and zoning maps and to pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in the administration of this Chapter.
3. *Special ~~Exception~~-Use Permits.* To hear and decide special and conditional ~~use~~-zoning permits in accordance with standards and procedures specified in this Chapter. Reasonable and appropriate conditions may be imposed upon these permits.
4. *Exceptions from the application requirements for Business District Areas zoned BD-PD in heavily trafficked areas.* To hear and decide on requests for exceptions from the design guidelines and performance standards required under §15.02.048.



5. *Subpoena.* To subpoena witnesses and compel the production of evidence, through the chair, or in the chair's absence anyone acting as the chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. ~~§160A-393(d)~~ §160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties
6. *Oath.* The chair of the Board, or any member acting as chair, and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board, willfully swears falsely is guilty of a Class 1 misdemeanor.
7. *Variance – In General.* When unnecessary hardships would result from carrying out the strict letter of this Chapter, the Board may vary any of the provisions herein upon a showing of all of the following:
  - a) Unnecessary hardship would result from the strict application of this Chapter. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - b) 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.
  - c) 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.
  - d) The requested variance is consistent with the spirit, purpose, and intent of this Chapter, such that public safety is secured, and substantial justice is achieved.

Provided, however, no change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

8. *Variance – Federal Fair Housing Act.* Notwithstanding the provisions of subparagraph (g) above, the Board may provide for a variance under the Federal Fair Housing Act upon the following:
  - a) *Application Requirements; Determination of Completeness.*
    - (1) *Persons Authorized to File Applications.* An application for a reasonable accommodation may be filed only by the owner of the land affected by the

9. *Decision.* As used in this Chapter, the term "decision" includes any final and binding order, requirement, or determination. The Board shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional ~~use~~-zoning permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or this Ordinance.

#### **§15.02.175 EXTRATERRITORIAL REPRESENTATION ON BOARDS**

- A. *Proportional representation.* When a municipality elects to exercise extraterritorial powers under this Chapter, it shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for the calculation shall be updated no less frequently than after each decennial census. Representation shall be provided by appointing at least one resident of the entire extraterritorial planning and development regulation area to the planning board and board of adjustment.

#### **§15.02.176 NOTICE OF HEARING QUASI-JUDICIAL PROCEDURE**

- A. *Notice of Hearing.* Notice of *evidentiary* hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
- B. *Administrative materials.* The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- C. *Presentation of evidence.* The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-14-2(d) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and



substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-14-2. Objections based on jurisdictional issues may be raised for the first time on judicial review.

#### **§15.02.177 VOTING**

- A. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For all other matters, a majority of the members shall be required. For the purposes of this Section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. Abstentions by a member not otherwise excused from voting shall be counted as a vote in favor of any motion or action.
- B. A member of the Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- C. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made.

#### **§15.02.178 QUASI-JUDICIAL DECISIONS AND JUDICIAL REVIEW**

- A. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision



becomes effective. The person required to provide notice shall certify that proper notice has been made.

- B. Every quasi-judicial decision shall be subject to review by the Craven County Superior Court by proceedings in the nature of certiorari pursuant to G.S. ~~§160A-393~~ §160D-1402. A petition for review shall be filed with the Clerk of Craven County Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with §15.02.178(a). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

#### **§15.02.179 APPEALS**

The Board shall hear and decide appeals from decisions of administrative officials charged with enforcement of this Ordinance, pursuant to all of the following:

- A. Any person who has standing under G.S. ~~§160A-393(d)~~ §160D-1402(c) or the city may appeal a decision to the Board. An appeal is taken by filing a notice of appeal with the Town Clerk and payment of any applicable fees; provided however, where interpretation of the terms of this Chapter is required specifically by this Chapter to be determined by the Board, the required fee will be waived. The notice of appeal shall state the grounds for the appeal.
- B. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- C. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- D. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- E. The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- F. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause

imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of this Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

- G. Subject to the provisions of subdivision (f) of this section, the Board shall hear and decide the appeal within a reasonable time.
- H. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.
- I. When hearing an appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. ~~§160A-393(k)~~ §160D-1402(j).
- J. The parties to an appeal that has been made under this Chapter may agree to mediation or other forms of alternative dispute resolution.

*Amended 08/20/2015*

#### **§15.02.180 RULES OF PROCEDURE**

Rules of procedure that are consistent with the provisions of this Chapter may be adopted by the governing board for any or all boards created under this Article. In the absence of action by the governing board, each board created under this Article is authorized to adopt its own rules of procedure that are consistent with the provisions of this Chapter. A copy of any adopted rules of procedure shall be maintained by the local government clerk or such other official as designated by ordinance and posted on the local government web site if one exists. Each board shall keep minutes of its proceedings.

#### **§15.02.181 OATH OF OFFICE**

All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and 160A-61.



## CHANGES AND AMENDMENTS

### § 15.02.190 GENERALLY.

The Town Council may amend, supplement or change the text of this chapter and/or the zoning map in accordance with the following procedures.

### § 15.02.191 APPLICATION.

- A. *Amendment initiation.* Proposed changes to this chapter may be initiated by the Town Council, Planning Board, Board of Adjustment, or by any 1 or more owners of property within the area proposed to be rezoned, changed or affected.
- B. *Petition for amendment of this chapter.*
  1. *Amendments.* Petitions to amend this chapter shall be submitted to the Planning Board for review and recommendation at least 15 days prior to the next regularly scheduled meeting of the Planning Board.
  2. *Required information.* The application shall contain a statement of the present regulation or zoning classification, the proposed amendment to it, and the name and address of the party requesting the change.
- C. *Petitions.* Petition for change or amendment of a zoning classification shall contain a legal description of the property to be affected by the change or amendment, the names of all owners of parcels of land within the property and of all owners of parcels of land abutting same as shown on the county tax listing, together with last known addresses listed for the owners on the county tax abstract. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor.
- D. *Notification.*
  1. The person or persons requesting a change or amendment to the zoning classification shall notify all owners listed in division (C) above of the proposed change or amendment by first class mail at their last known addresses.
  2. These mailings will occur not less than 10 days nor more than 25 days before the date fixed for the public hearing for consideration of a rezoning action.
  3. When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the local government shall post sufficient notices to provide reasonable notice to interested persons.
  - ~~2.~~4. Actual notice. Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by



the landowner or authorized agent, the applicant shall certify to the local government that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing.

- E. *Fee.* With each application for a change or amendment to this ordinance, a fee of \$35 shall accompany the application and made payable to the Town of River Bend, North Carolina, to cover the costs of advertising and administrative expenses.

Penalty, see § 1.01.999

#### **§ 15.02.192 PLANNING BOARD REVIEW AND RECOMMENDATION.**

- A. The Planning Board may call for a public hearing on any proposed amendments and shall be held jointly with the Town Council. A notice of public hearing shall be given once a week for 2 successive weeks in a newspaper distributed in the Town of River Bend, the notice to be published the first time not less than 10 days nor more than 25 days prior to the day fixed for the public hearing. If the amendment is for re-zoning, the advertisement shall not be less than a one-half page advertisement.
- B. The Planning Board may have 45 days from the date of receipt of the petition within which to submit its recommendation. Failure of the Board to submit its recommendation within this time period shall constitute a favorable recommendation. The Planning Board's report shall be submitted in writing to the Town Council. Pursuant to G.S. § ~~160A-383~~160D-1402, zoning regulations shall be made in accordance with the town's comprehensive plan. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.
- C. Pursuant to G.S. § ~~160A-381(d)~~160D-109(a), members of appointed boards providing advice to the Town Council shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- ~~C.~~ D. Notwithstanding the authority to assign duties of the planning board to the governing board as provided by this Chapter, the review and comment required by this section shall not be assigned to the governing board and must be performed by a separate board.

#### **§ 15.02.193 PUBLIC HEARING BY TOWN COUNCIL.**

- A. *Advertisement.* Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of public hearing shall be given once a week for 2 successive calendar weeks in a newspaper distributed in the Town of River Bend, North Carolina, the notice to be published for the first time not less than 10 days nor more than 25 days prior to the date fixed for the hearing. In computing the period, the day of publication is not to be included but the day of the hearing

shall be included. Notice of public hearing by the Town Council need not be made if a joint public hearing with the Planning Board is to be held as noted in § 15.02.192.

- B. *Vote of the Board.* A simple majority of the Town Council shall be required to reject a recommendation of the Planning Board.
- C. *A development regulation adopted pursuant to this Chapter shall be adopted by ordinance.*

#### § 15.02.194 GOVERNING BOARD STATEMENT.

- A. *Plan consistency.* When adopting or rejecting any zoning text or map amendment, the governing board shall also approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- B. *Statement of reasonableness.* When adopting or rejecting any petition for a zoning text or map amendment, a brief statement explaining the reasonableness of the proposed rezoning shall be approved by the governing board. The statement of reasonableness may consider, among other factors: (i) the size, physical conditions, and other attributes of any area proposed to be rezoned; (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development and the development permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the governing board statement on reasonableness may address the overall rezoning.
- ~~B.~~C. *Single statement permissible.* The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

### SCHEDULE OF FEES

#### § 15.02.205 SCHEDULE.

- A.



1. There shall be levied and collected fees as are specified in the schedule of fees established (and as modified from time to time) by the Town Council.

*Amended 02/16/2012*

2. The schedule of fees shall be kept on file in the office of the Town Clerk where it shall be available for public inspection during the normal office hours of the Town Clerk.

Schedule of Fees Subdivision and Zoning		
Subdivision Application		
10 or fewer lots	\$300	
11 or more lots	\$300 plus \$25/lot over 10	
Subdivision Preliminary Plat	\$100	
Stormwater Review (if engineering review needed)	\$350	
Amendments/Modifications or Additions	\$150	
Planned Developments		
Planned Development – Residential	\$400 plus \$5/unit and cost of required legal advertisement and postage to notify abutting land owners	
Planned Development – Commercial	\$400 plus \$20/acre over 5 acres and cost of required legal advertisement and postage to notify abutting land owners	
Stormwater Review (if engineering review needed)	\$350	
Amendments/Modification or Additions	\$200	
Zoning Application		
Special <del>Exception</del> -Use Permit	\$200 plus cost of required legal advertisement and postage to notify abutting land owners	
Variance	\$200 plus cost of required legal advertisement and postage to notify abutting land owners	
Appeal to Board of Adjustment	\$200 plus cost of required legal advertisement and postage to notify abutting land owners	
Residential Application	Based on amount of project as follows:	
	Base Fee	\$30
	\$2 for every \$1,000 of project value between \$1,000 and \$100,000	
	\$1 for every \$1,000 above \$100,000 (all values rounded to nearest \$1,000)	
Residential Flood Plain Application w/ Zoning Permit	40% of the fee for the Town’s residential zoning permit; in addition to the zoning permit fee	



**TOWN OF RIVER BEND  
PLANNING BOARD**

**RESOLUTION ADVISING THAT THE PROPOSED AMENDMENTS  
TO THE CODE OF ORDINANCES ARE IN ACCORDANCE WITH  
ALL OFFICIALLY ADOPTED PLANS, INCLUDING THE  
COMPREHENSIVE LAND USE PLAN; ARE REASONABLE;  
AND ARE IN THE PUBLIC INTEREST.**

WHEREAS, the North Carolina General Assembly has given the Town of River Bend ("Town") the authority to adopt and amend zoning and development regulation ordinances for the purpose of promoting health, safety, morals and the general welfare of its citizens, and

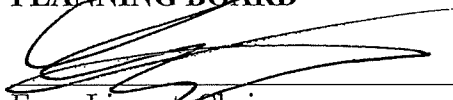
WHEREAS, N.C.G.S. § 160D-604(d) requires the Town of River Bend Planning Board ("Board") to advise the Town of River Bend Town Council by written statement describing whether the proposed amendments to the Town's Code of Ordinances as related to zoning are consistent with all officially adopted plans, including the comprehensive land use plan, and

WHEREAS, the Board has in fact met to consider and evaluate the proposed revision of Chapter 15: Land Usage to incorporate required language prescribed by the North Carolina General Assembly.

NOW THEREFORE, BE IT HEREBY RESOLVED, that the Board finds that the proposed amendments to the Code of Ordinances are in accordance with and consistent with all officially adopted Town plans, including any comprehensive land use plan, and therefore recommends adoption by the Town Council.

This Resolution is effective upon its adoption this 6th day of May, 2021.

**TOWN OF RIVER BEND  
PLANNING BOARD**

  
Egon Lippert, Chairman

ATTEST:

  
Allison McCollum, Secretary

# **Town of River Bend, NC Financial and Budgetary Policies**



**Effective May 17, 2018**

## Financial and Budgetary Policies

### I. Introduction

yellow= add green=delete

The Town of River Bend maintains comprehensive financial policies covering a broad range of the elements of the Town's financial plans and financial systems that underlay the management of overall financial resources. These policies have major objectives to be achieved that include:

1. To link long-term financial planning with short-term daily operations and decision-making.
2. To maintain and improve the Town's financial position.
3. To maintain and improve the Town's credit ratings by meeting or exceeding the requirements of rating agencies through sound financial policies.
4. To maintain and increase investor confidence in the Town and to provide credibility to the citizens of the Town regarding financial operations.
5. To comply with the North Carolina Budget and Fiscal Control Act and the policies of the North Carolina Local Government Commission (the "LGC").
6. To effectively conduct asset-liability management of the Town's balance sheet.

### II. Operating Budget

1. The Town's Annual Budget Ordinance will be balanced in accordance with the Local Government Budget and Fiscal Control Act (G.S. 159-8(a)).
2. The Town's Annual Budget Ordinance will be adopted, by fund and department, by each July 1 (G.S. 159-13(a)).
3. In order to force a higher level of planning throughout all levels of Town government, the annual budget process will focus on future needs through a Capital Improvements Plan, as discussed later in this document.
4. The annual budget process will consist of a series of public meetings where Council and staff discuss needs in relation to the Town's mission statement, and Council's adopted priorities.

### III. Revenue Policy

1. Ad Valorem Tax – As provided by the North Carolina Budget and Fiscal Control Act, estimated revenue from the Ad Valorem Tax levy will be budgeted as follows:
  - a. Assessed valuation will be provided by the Craven County Tax Assessor.



- b. The estimated percentage of collection will not exceed the actual collection percentage of the preceding fiscal year, in accordance with State law.
    - c. The property tax rate will be set each year based upon the costs of providing general governmental services, meeting debt service obligations and building or maintaining any reserves or fund balances the Council deems necessary.
2. State revenues fluctuate according to the general economic condition of the state and the county. Accordingly, the Town will budget these revenues in a conservative manner using guidance from the North Carolina League of Municipalities to determine predicted rates of growth in these revenues.
3. User Fees – The Town Council (the “Council”) will set user fees annually by listing such fees within a fee schedule adopted with the Annual Budget Ordinance. In the case of the water and sewer enterprises, the Council will continue to use a professionally designed rate model in order to determine the most appropriate rates based upon current and future expenses. User fees will maximize charges for services that can be individually identified and where costs are directly related to the provision of or to the level of service provided.
  - a. Emphasis of user fees results in the following benefits:
    1. The burden on the Ad Valorem tax is reduced.
    2. User fees are paid by all users, including those exempt from property taxes.
    3. User fees help minimize subsidization in any instance where there are requirements in order to qualify for the use of the service and the service is not provided to the general public.
    4. User fees produce information on the demand level for services and help to make a connection between the amount paid and the services received.
4. Interest Income – Interest income is subject to variability based upon changes in prevailing interest rates, which cannot be predicted with certainty. Such revenue shall therefore be budgeted in a conservative manner within the Annual Budget Ordinance and shall comply with the Asset – Liability Management section of this policy.
5. Grant Funding – Staff will pursue opportunities for grant funding. Application for grant funding will be made after a grant has been evaluated for consistency with the Council’s goals and compatibility with Town programs and objectives. Staff must have Council approval to apply for a grant for any amount over \$50,000 and for any grant that requires a local dollar match. All awarded grants can only be accepted by Council action at which time the related budget shall be established.
  - a. Grants that have been awarded in prior years and are recurring in nature will be included and addressed through the annual budget process.
  - b. Grants that fund operating expenditures but have a funding termination date must fully disclose that fact to the Council prior to acceptance.

- c. The grant manager for each grant shall be the Town Manager. The grant manager is responsible for all grant monitoring, compliance and reporting. The grant manager will provide copies of all documents to the Finance Administrator. The Finance Administrator will maintain a grant file by fiscal year for each active grant.
  - d. For grants involving federal funds, the grant manager is responsible for checking the list of federally debarred contractors prior to awarding any contracts.
6. Appropriation of Fund Balance – Assigned fund balance originally appropriated with adoption of the General Fund annual operating budget shall not exceed 3% of the prior fiscal year's budgeted expenditures, unless done per Section 2b of the Reserve/Fund Balance section of this policy. Any further commitment of fund balance in the General Fund during the fiscal year shall require four "yes" votes from the five members of Council.
7. Budgetary Responsibilities – The Town Manager shall develop initial budget estimates of applicable revenues. Those estimates are to be supported by variables (base, rate, etc.) that comprise such revenue. Monitoring of the revenue budget shall be performed by the Finance Administrator in a timely manner throughout the fiscal year and shall include an analysis of actual versus budgeted variances. Compliance of revenue with all laws and/or regulations is primarily the responsibility of the revenue-initiating department.

#### **Revenue Spending Policy**

1. The Town will follow a revenue spending policy that provides guidance for programs with multiple revenue sources. The Finance Department, as directed by the Finance Officer, will use resources in the following hierarchy as appropriate: bond proceeds, federal funds, State funds, local non-Town funds, and Town funds.
2. For purposes of fund balance classification, expenditures are to be spent from restricted fund balance first, followed in order by committed fund balance, assigned fund balance, and lastly, unassigned fund balance. The Finance Officer has the authority to deviate from this policy if it is in the best interest of the Town.

#### **IV. Expenditure Policy**

1. Expenditure budgets shall be monitored throughout the fiscal year by department heads, the Finance Administrator and the Town Manager. Budget compliance, which includes electronic obligations, is the responsibility of the department head and the Town Manager.
2. Budgeted funds will only be spent for categorical purposes for which they are intended. Budget amendments may be made to reflect unexpected expenses and must be approved by vote of the Council. Appropriations of debt proceeds will be made only for the purpose for which such debt instrument was issued or for the payment of debt principal and interest.
3. Budgeted expenditures for debt service for any variable rate debt or synthetic variable rate debt will be set to at least the average of the prior five years.



4. For continuing contracts, funds will be appropriated in the annual budget ordinance to meet current year obligations arising under the contract, in accordance with G.S. 160A-17.
5. Payroll will be processed in accordance with the requirements of the Fair Labor Standards Act. Overtime and benefit payments will be made in accordance with the Town's Personnel Policy.
6. The Town may utilize non-capital operating leases or installment purchase loans for the procurement of copiers, multifunction copiers/printer type machines and for personal computers.
7. The Town will fund current expenditures with current resources and will strive to avoid balancing budgets utilizing one-time revenues.
8. The Town will employ the use of the carryover method for reappropriation of outstanding purchase orders and contracts as of the end of each fiscal year into the new fiscal year. The process shall be explained in each year's budget process.

**V. Reserve/Fund Balance Policy**

1. In accordance with State statute, appropriated fund balance in any fund will not exceed the sum of cash and investments less the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts as those figures stand at the close of the fiscal year next preceding the budget year.
2. The Town will strive to maintain a General Fund unassigned fund balance that significantly exceeds the minimum eight percent (8%) as recommended by the LGC. Unassigned fund balance is defined as the portion of fund balance that remains available for appropriation by the Town Council after all commitments for future expenditures, required reserves defined by State statutes, and Council-established assignments have been calculated. The percentage is to be determined by dividing the unassigned fund balance amount by actual expenditures of the then completed fiscal year. The goal is to maintain a fund balance of no less than 50%, with the total amount of unassigned fund balance at \$2,000,000.
  - a. Purpose of Reserve: These funds will be utilized to avoid cash flow interruptions, generate interest income, eliminate the need for short-term borrowing, and maintain the Town's credit ratings.
  - b. Reserve Drawdown: The available fund balance may be purposefully drawn down below the target percentage for emergencies, economic influences, nonrecurring expenditures, or major capital projects.
  - c. Reserve Replenishment: If the available fund balance percentage falls below the target percentage for two consecutive fiscal years, the Town will replenish funds by direct appropriation in the next budget developed for the fiscal year after the occurrence is known. In that instance, the Town will annually appropriate 25% of the difference between the target percentage level and the actual balance until the



target level is met. In the event appropriating 25% is not feasible, the Town will appropriate a lesser amount and shall reaffirm by Council resolution its commitment to fully replenish the fund balance over a longer period of time.

- d. Any General Fund unassigned fund balance that exceeds the target goal range may be used to reduce general fund debt.
3. The Town will appropriate within the annual budget a Contingency appropriation each fiscal year. The minimum level of contingency is 1% of budgeted general fund expenditures and the maximum is an amount equal to the revenue generated by a \$.01 ad valorem tax rate. **plus the approved provision for personnel merit bonuses.**
4. The Town's goal will be to maintain a minimum cash balance in both the water and sewer operating funds (separately) of 50% of actual expenditures of the **then most recently** completed fiscal year. These funds will be utilized to avoid cash flow interruptions, generate interest income, fund capital expenditures, eliminate the need for short-term borrowing and maintain the Town's credit ratings.

## **VI. Asset-Liability Management**

1. The Town will seek to incorporate coordinated investment and debt structuring decisions with the goal of such coordination being to use each side of the balance sheet to mitigate, or hedge, cash flow risks posed by the other side of the balance sheet.
2. The Town considers short-term investments to be effective hedges to variable rate debt because movements in interest rates should have offsetting impacts upon both.
  - a. Given the prevalent patterns of business, economic and interest rate cycles, the Town may strive to match temporary increases in interest income to temporary increases in interest expense through the use of variable rate debt or synthetic variable rate debt.
  - b. This recognizes that variable rate debt generally offers lower interest costs and that the use of higher interest income to offset higher interest expense is preferable to creating a budget imbalance due to reliance upon temporarily increased interest income.
3. The Finance Officer is designated to monitor and report on financial market conditions and their impact on performance of debt, investments, and any interest rate hedging products implemented or under consideration.
4. The Finance Officer is designated as the individual responsible for negotiating financial products and coordinating investment decisions for debt structure. The Finance Officer is designated as the individual responsible for recommending debt structure to the Council.
5. The Town may incorporate the use of variable rate debt or synthetic variable rate debt, as allowed by the Debt Management Section of the LGC, into its debt structure. Unhedged

variable or synthetic variable rate debt shall not exceed 20% of the Town's total, non-Utility debt outstanding.

## **VII. Capital Improvements Policy**

### **1. Capital Improvements Plan**

- a. The Town will update and readopt annually a five-year capital improvements plan (CIP) which projects capital needs and details the estimated costs, description and anticipated funding sources for capital projects. A separate CIP will be developed for the General Fund, Water Fund, and Sewer Fund.
- b. The annual update of the CIP will be conducted in conjunction with the annual operating budget process.
- c. The first year of the five-year CIP will be the basis of formal fiscal year appropriations during the annual budget process.
- d. A programming or cost estimation study is eligible for inclusion in the CIP for a project for which a future request is being considered. Such a study is encouraged in order to generate reliable cost estimates for the CIP.
- e. The Town expects to see new capital items generally first appear in the last year of the CIP.
- f. The Town acknowledges pay-as-you-go financing as a significant capital financing source, but will ultimately determine the most appropriate financing structure for each capital project both on an individual basis after examining all relevant factors of the project and in conjunction with the funding of the entire CIP.

### **2. Capital Formation**

- a. General Fund revenue is the source for the General Fund CIP. The water CIF fee and hydrant fee are is a sources of revenue for the water Capital Reserve Fund. The sewer CIF fee is a revenue source for the sewer Capital Reserve Fund. The water and sewer enterprise fund annual budget will also provide CIP revenue in these areas as the use of CIF/Hydrant fee revenue is limited, per Council resolution, to debt reduction or system expansion activities.
- b. The General Fund Capital Reserve Fund is the funding source for pay-as-you-go financing and for debt service payments for debt financed projects in the General Fund CIP.
- c. Given the historical volatility of the state and other revenues, the five year projections of revenue used to complete the CIP shall be very conservative.



3. Fixed Assets

- a. The capitalization threshold for fixed assets shall be \$5,000. The threshold will be applied to individual fixed assets and not to groups of fixed assets. Fixed assets will only be capitalized if they have a useful life of at least three years following the date of acquisition. A physical inventory of capitalized fixed assets will be performed, either simultaneously or on a rotating basis, so that all fixed assets are physically accounted for at least once every four years.

**VIII. Debt Policy**

1. Debt will only be incurred for financing capital assets that, because of their long-term nature or because of budgetary restraints, cannot be acquired from current or budgeted resources. **Debt will not be used for operational needs.** Debt financing can include general obligation bonds, revenue bonds, certificates of participation, lease/purchase agreements, special obligation bonds, or any other financing instrument allowed under North Carolina law.
2. The Town will seek to structure debt and to determine the best type of financing for each financing need based on the flexibility needed to meet project needs, the timing of the project, taxpayer or rate payer equity, and the structure that will provide the lowest interest cost in the circumstances.
3. Debt financing will be considered in conjunction with the approval by the Council of the Town's CIP.
4. Capital projects financed through the issuance of bonds, installment financings or lease financings will be financed for a period not to exceed the expected useful life of the project.
  - a. General fund debt will normally have a term of 20 years or less. When practical, the term of non-Utility debt will not exceed 30 years.
  - b. Enterprise fund (water and sewer) debt will normally have a term of 30 years or less. When practical, the term of Utility debt will not exceed 40 years.
5. The Town will strive to maintain a high level of pay-as-you-go financing for its capital improvements.
6. Debt Affordability
  - a. The net debt of the Town, as defined in G.S. 159-55, is statutorily limited to 8% of the assessed valuation of the taxable property within the Town. The Town will strive to maintain a net debt level of no greater than 4%.
  - b. Total General Fund debt service will not exceed any limits imposed by the LGC. As a guide, formulas established by the LGC and rating agencies will be monitored and appropriately applied by the Town. Debt service as a percentage of the operating budget will be targeted at less than 15%.
  - c. The Town will strive to achieve amortization of 60% or more of its non-Utility debt principal within ten years.



7. The Town will seek to structure debt in the best and most appropriate manner to be consistent with the Asset – Liability Management section of this policy.
8. If the Town issues Revenue Bonds, and whereas the minimum coverage ratio expected for Town revenue bonds is 1.20 times, upon the calculation of a coverage ratio for any Utilities System Revenue Bonds which is below 1.5 times (Net Revenues as defined by the General Indenture, but excluding cash receipts from special assessments, over Debt Service as defined by the General Indenture), the Finance Officer will notify the Council of such. Within three months of such notification, the Finance Officer will again report to the Council and will have performed the necessary internal study to advise the Council on the actions necessary to restore the coverage ratio to above 1.5 times. This policy is intended to ensure that all reasonable steps necessary are taken to begin the process of reviewing water revenues and rates well before the coverage ratio for outstanding revenue bonds could reach the minimum level of 1.20 times.
9. The Town will seek to employ the best and most appropriate strategy to respond to a declining interest rate environment. That strategy may include, but does not have to be limited to, delaying the planned issuance of fixed rate debt, examining the potential for refunding of outstanding fixed rate debt, and the issuance of variable rate debt. The Town will seek to employ the best and most appropriate strategy to respond to an increasing interest rate environment. That strategy may include, but does not have to be limited to, the issuance of variable rate debt (a historically lower interest cost), and the use of forward delivery fixed rate debt.
10. The Town will monitor the municipal bond market for opportunities to obtain interest rate savings by refunding by forward delivery, currently refunding or advance refunding outstanding debt. The estimation of net present value savings for a traditional fixed rate refunding should be, at a minimum, 3% of the refunded maturities before a refunding process begins. The estimation of net present value savings for a synthetic fixed rate refunding should be, at a minimum, in the range of 5% to 6% of the refunded maturities before a refunding process begins.
11. The Town will strive for the highest possible bond ratings in order to minimize the Town's interest costs.
12. The Town will normally obtain two debt ratings (Fitch Ratings, Moody's, or Standard & Poor's) for all publicly sold debt issues.
13. While some form of outstanding debt exists, the Town will strive to have a portion of that debt in the form of general obligation debt, when fiscally advantageous.
14. For all years that the Town has any publicly sold debt outstanding, the Town will provide annual information updates to each of the debt rating agencies if desired by those agencies.
15. The Town will use the Comprehensive Annual Comprehensive Financial Report (ACFR) as the disclosure document for meeting its obligation under SEC Rule 15c2-12 to provide

certain annual financial information to the secondary debt market via various information repositories.

16. The Town recognizes the significance of the debt portfolio and the need for the ability to properly manage and maintain that portfolio. The Finance Administrator will maintain a current database of all debt.

## **IX. Accounting, Auditing and Financial Reporting**

1. The Town will maintain accounting systems in compliance with the North Carolina Local Government Budget and Fiscal Control Act. The Town will maintain accounting systems that enable the preparation of financial statements in conformity with generally accepted accounting principals (GAAP).
  - a. The basis of accounting within governmental funds will be modified accrual.
  - b. The basis for accounting within all Enterprise and Internal Service Funds will be modified accrual.
2. Financial systems will be maintained to enable the continuous monitoring of revenues and expenditures or expenses with complete sets of monthly reports provided to the Council, and the Town Manager. Monthly expenditure/expense reports will be provided to each department head for their functional area and online, real time, view only, access to the financial system will be made available to department heads and other staff as much as practical and its use encouraged.
3. The Town will place emphasis on maintenance of an accounting system which provides strong internal budgetary and financial controls designed to provide reasonable, but not absolute, assurance regarding both the safeguarding of assets against loss from unauthorized use or disposition and the reliability of financial records for preparing financial statements and reports, as well as the accountability of assets.
4. An annual audit will be performed by an independent certified accounting firm which will issue an opinion on the annual financial statements as required by the Local Government Budget and Fiscal Control Act.
5. The Town will solicit proposals from qualified independent certified public accounting firms for audit services. The principal factor in the audit procurement process will be the auditor's ability to perform a quality audit. The Town may enter into a multiyear agreement with the selected firm for a period of up to three fiscal years. Firms are not barred from consecutive contract awards. The Council, upon recommendation from the Finance Officer and Audit Committee, shall approve the contractual relationship with the auditor
6. The Town will maintain a standing audit committee. The committee will oversee the independent audit of the Town's financial statements, from the recommendation of the auditor to the resolution of any audit findings.



7. The Finance Officer will conduct some form of internal audit procedures at least one time per year, specifically focusing upon cash receipts procedures.
8. The Town will prepare an ACFR in compliance with established criteria to obtain the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting and will be submitted to that award program each year.
9. Full and complete disclosure will be provided in all regulatory reports, financial statements and debt offering statements.
10. The Town shall use the ACFR as the disclosure document for meeting its obligation to provide certain annual financial information to the secondary debt market via various information repositories. The annual disclosure is a condition of certain debt covenants and contracts that are required by SEC Rule 15c2-12.
11. The Finance Administrator will develop and maintain a Financial Procedures Manual as a central reference point and handbook for all financial, accounting and recording procedures.
12. The Town Manager will establish, document and maintain a Computer Disaster Recovery Plan and will provide for the daily backup of data and the offsite storage of the same.

## **X. Cash Management Policy**

### **1. Receipts**

- a. All aspects of cash receipts shall be subject to proper internal controls with standard controls documented and followed by revenue generating departments.
- b. The Town Manager shall prescribe internal control procedures for departments which address adequate segregation of duties, physical security, daily processing and reconciliation, use of automated resources, and treatment of overpayments.
- c. Cash receipts will be collected as expediently as reasonably possible to provide secure handling of incoming cash and to move these moneys into interest bearing accounts and investments.
- d. All incoming funds will be deposited daily as required by State law.
- e. The Finance Officer is responsible for conducting at least two unannounced random or risk based internal audits of cash receipting locations per fiscal year.
- f. Upon any suspicion of fraud, the department head shall timely notify the Town Manager for further investigation.
- g. Upon any suspicion of non-compliance with internal control directives, the department head shall timely notify the Town Manager for further investigation.



- h. The Town reserves the right to refuse acceptance of more than \$5.00 in coins, damaged currency, suspicious currency or any check for the transaction of business. ( added 7-13-2017)

## 2. Cash Disbursements

- a. The Town's objective is to retain monies for investment for the longest appropriate period of time.
- b. Disbursements will be made timely in advance of or on the agreed-upon contractual date of payment unless earlier payment provides greater economic benefit to the Town.
- c. Inventories and supplies will be maintained at minimally appropriate levels for operations in order to increase cash availability for investments purposes.
- d. Dual signatures are required for Town checks. Electronic signature of checks, drafts and purchase orders, while technically possible, is not deemed appropriate at this time. The Council may provide by appropriate resolution or ordinance for the use of a signature stamp or similar device in signing checks and drafts and in signing the preaudit certificate on contracts or purchase orders. The Council shall charge the Finance Officer with the custody of the stamp or device, and the Finance Officer and sureties on his official bond are liable for any illegal, improper, or unauthorized use.
- e. Electronic payments shall be utilized to the fullest extent possible where it is determined to be cost effective by the Finance Administrator. Such payments shall be integrated with financial systems and shall follow the proper data and internal controls in accordance with the NC Administrative Code 20 NCAC 03.0410.

## **XI. Investment Policy**

- 1. Policy - It is the policy of the Town to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow requirements of the Town and conforming to all State statutes governing the investment of idle funds.
- 2. Scope - This investment policy applies to all financial assets of the Town except authorized petty cash, and debt proceeds, which are accounted for and invested separately from pooled cash. The Town pools the cash resources of its various funds and participating component units into a single pool, as deemed appropriate, in order to maximize investment opportunities and returns. Each fund's and participating component unit's portion of total cash and investments is tracked by the financial accounting system.
- 3. Prudence
  - a. The standard of prudence to be used by authorized staff shall be the "prudent person" standard and shall be applied in the context of managing an overall

portfolio. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

- b. Authorized staff acting in accordance with procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion to the Council and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.
4. Authorized Staff - G.S. 159-25(a) 6 delegates management responsibility for the investment program to the Finance Officer. The Finance Officer will establish and maintain procedures for the operation of the investment program that are consistent with this policy. Such procedures will include delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Finance Officer.

The Finance Officer will be responsible for all transactions undertaken and will establish and maintain a system of controls to regulate the activities of subordinates. In the absence of the Finance Officer and those to which he or she has delegated investment authority, the Town Manager or his or her designee is authorized to execute investment activities.

5. Objectives - The Town's objectives in managing the investment portfolio, in order of priority, are safety, liquidity, and yield.
  - Safety - Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To best mitigate against credit risk (the risk of loss due to the failure of the security issuer) diversification is required. To best mitigate against interest rate risk (the risk that changes in interest rates will adversely affect the market value of a security and that the security will have to be liquidated and the loss realized) the second objective, adequate liquidity, must be met.
  - Liquidity - The investment portfolio shall remain sufficiently liquid to meet all operating and debt service cash requirements that may be reasonably anticipated. The portfolio will be structured so that securities mature concurrent with cash needs (static liquidity), with securities with an active secondary market (dynamic liquidity), and with deposits and investments in highly liquid money market and mutual fund accounts.
  - Yield - The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary, economic and interest rate cycles, taking into account investment risk constraints and liquidity needs.
6. Ethics and Conflicts of Interest - Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution



and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose to the Town Manager any interests in financial institutions with which they conduct business material to them. They shall further disclose any personal financial or investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the Town.

7. Authorized Financial Dealers and Financial Institutions

- a. The Finance Officer will maintain a list of financial institutions that are authorized to provide investment services. Authorized financial institutions will be selected by credit worthiness and must maintain an office in the State of North Carolina. These may include "primary" dealers or regional dealers that qualify under SEC Rule 15C3-1 (uniform net capital rule).
  - b. Any financial institutions and broker dealers that desire to become qualified to conduct investment transactions with the Town must supply the Finance Officer with the following:
    - Audited financial statements;
    - Proof of National Association of Securities Dealers certification;
    - Proof of State registration; and
    - Certification of having read the Town's investment policy.
  - c. Any previously qualified financial institution that fails to comply or is unable to comply with the above items upon request will be removed from the list of qualified financial institutions.
  - d. The Finance Officer shall have discretion in determining the number of authorized financial institutions and may limit that number based upon the practicality of efficiently conducting the investment program. The Finance Officer shall also have the discretion to add or remove authorized financial institutions based upon potential or past performance.
8. Internal Control - The Town Manager is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived and that the valuation of costs and benefits requires the use of estimates and judgments by management.
9. Collateralization - Collateralization is required for certificates of deposit. North Carolina General Statutes allow the State Treasurer and the Local Government Commission to prescribe rules to regulate the collateralization of public deposits in North Carolina banks. These rules are codified in the North Carolina Administrative Code – Title 20, Chapter 7 (20 NCAC 7). The Pooling Method of collateralization under 20 NCAC 7 allows depositories to use an escrow account established with the State Treasurer to secure the deposits of all

units of local government. This method transfers the responsibility for monitoring each bank's collateralization and financial condition from the Town to the State Treasurer. The Town will only maintain deposits with institutions using the Pooling Method of collateralization.

10. Delivery and Custody - All investment security transactions entered into by the Town shall be conducted on a delivery versus payment basis. Securities will be held by a third party custodian designated by the Finance Officer and each transaction will be evidenced by safekeeping receipts and tickets.
11. Authorized Investments - The Town is empowered by North Carolina G.S. 159-30(c) to invest in certain types of investments. The Town Council approves the use of the following investment types, the list of which is more restrictive than G.S. 159-30(c):
  - a. Obligations of the United States or obligations fully guaranteed as to both principal and interest by the United States.
  - b. Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, and the United States Postal Service.
  - c. Obligations of the State of North Carolina.
  - d. Bonds and notes of any North Carolina local government or public authority that are rated "AA" or better by at least two of the nationally recognized ratings services or that carries any "AAA insured" rating.
  - e. Fully collateralized deposits at interest or certificates of deposit with any bank, savings and loan association or trust company that utilizes the Pooling Method of collateralization (section VIII.I).
  - f. Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service, which rates the particular obligation.
  - g. Banker's acceptance of a commercial bank or its holding company provided that the bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.
  - h. Participating shares in a mutual fund for local government investment, provided that the investments of the fund are limited to those qualifying for investment under G.S. 150-30(c) and that said fund is certified by the LGC. (The only such certified fund is the North Carolina Capital Management Trust.)



- i. Evidences of ownership of, or fractional undivided interest in, future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian (STRIPS).
- j. Guaranteed investment contracts utilizing repurchase agreements but only for the investment of debt proceeds which are to be collateralized at 105% and marked to market on a daily basis.

12. Prohibited Forms of Authorized Investments

- a. The use of repurchase agreements in the normal investment portfolio (not debt proceeds) is prohibited.
- b. The use of collateralized mortgage obligations is prohibited.
- c. The use of any type of securities lending practices is prohibited.

13. Diversification - Investments will be diversified by security type and by institution.

- a. With the exception of United States treasury securities and the North Carolina Capital Management Trust, no more than 30% of the Town's total investment portfolio will be invested in a single security type or with a single financial institution.
- b. The total investment in certificates of deposit shall not exceed 25% of the Town's total investment portfolio and the investment in certificates of deposit with a single financial institution shall not exceed FDIC insurance limitations.
- c. The Finance Officer is responsible for monitoring compliance with the above restrictions. If a violation occurs, the Finance Officer shall report such to the Town Manager and to the Council along with a plan to address the violation.

14. Maximum Maturities - To the extent possible, the Town will attempt to match its investments with anticipated cash flow requirements. Beyond identified cash flow needs, investments will be purchased so that maturities are staggered. The following maturity limits are set for the Town's investment portfolio:

- a. At least 60% of the investment portfolio will have maturities of no more than 3 years from the date of purchase.
- b. At least 80% of the investment portfolio will have maturities of no more than 5 years from the date of purchase.
- c. At least 95% of the investment portfolio will have maturities of no more than 10 years from the date of purchase.

- d. No investments maturing more than 15 years from the date of purchase may be purchased.
  - e. For purposes of this section, for any variable rate demand obligation, the purchase date is considered to be the last reset and remarketing date and the maturity date is considered to be the next reset and remarketing date.
  - f. If any change is made to the Town's policy for unassigned fund balance in the General Fund then other sections of this policy must be concurrently revised.
15. Selection of Securities - The Finance Officer or his or her designee will determine which investments shall be purchased and sold and the desired maturity date(s) that are in the best interest of the Town. The selection of an investment will involve the evaluation of, but not limited to, the following factors: cash flow projections and requirements; current market conditions; and overall portfolio balance and makeup.
16. Responses to Changes in Short Term Interest Rates
- a. The Town will seek to employ the best and most appropriate strategy to respond to a declining short-term interest rate environment. The strategy may include, but does not have to be limited to, purchases of callable "cushion" bonds, lengthening of maturities in the portfolio, and increases in the percentage of ownership of treasury notes relative to that of treasury bills.
  - b. The Town will seek to employ the best and most appropriate strategy to respond to an increasing short-term interest rate environment. That strategy may include, but does not have to be limited to, purchases of "step-up" securities, shortening of maturities in the portfolio, the use of floating rate investments, and increases in the percentage of ownership of treasury bills relative to that of treasury notes.
17. Performance Standards - The investment portfolio will be managed in accordance with the parameters specified within this policy. The investment portfolio will strive to obtain a market average rate of return within the constraints of the Town's investment risk profile and cash flow needs. The performance benchmarks for the performance of the portfolio will be rates of return on 90-day commercial paper and on three-year treasury notes.
18. Active Trading of Securities -It is the Town's intent, at the time of purchase, to hold all investments until maturity to ensure the return of all invested principal. However, if economic or market conditions change making it in the Town's best interest to sell or to trade a security before maturity, that action may be taken.
19. Pooled Cash and Allocation of Interest Income - All moneys earned and collected from investments other than bond proceeds will be allocated monthly to the various participating funds and component units based upon the average cash balance of each fund and component unit as a percentage of the total pooled portfolio. Earnings on bond proceeds will be directly credited to the same proceeds.



20. Marking to Market - A report of the market value of the portfolio will be generated at least semi-annually by the Finance Administrator. The Finance Officer will use the reports to review the investment portfolio in terms of value and price volatility, as well as for compliance with GASB Statement #31.
21. Software - The Town recognizes the significance of the size of its investment portfolio and of the requirements contained in this policy. The Town will utilize investment software which enables efficient transaction processing and recording, sufficient portfolio monitoring and the ability to maintain reporting compliance with this policy.
22. Reporting - The Finance Administrator will prepare a quarterly investment report that will be submitted with the Board's monthly report package.
  - a. The quarterly investment report will include a listing of all investments and will show the investment number, the investment description, the purchase, call and maturity dates, the yields to call and to maturity, the weighted average yields to call and to maturity by investment type and in total, the coupon rate, the par value and the ending amortized value. The report will also include earnings information for the last twelve months with that information compared to the established benchmarks.
  - b. The quarterly investment report will include reporting on the status of diversification compliance.

23. Policy Considerations

- a. A maturity or diversification violation created by fluctuations in the size of the portfolio does not require corrective action. The violation may be cured through an increase in the portfolio size or the maturity of an investment.

**XII. Review and Revision**

The Town will formally review this set of financial and budgetary policies at least once every three years.

## Glossary

**ACFR:** Comprehensive Annual Financial Report

This report moves one-step beyond the typical “audit report” and includes all the information from an audit, plus additional statistical and general information about the unit.

**CIF:** Capital Improvement Fund

As fee is paid for all new connections to the water and sewer systems that goes directly into separate capital improvement funds. These funds, by resolution of the Town Council, are only for projects related to system expansion or the retirement of debt. The water CIF is also funded by the annual hydrant fee paid by owners of developed lots that are not connected to the water system.

**CIP:** Capital Improvement Plan

The purpose of the capital improvement plan (CIP) is to forecast and match projected revenues and major capital needs over a five-year period. Generally defined, CIP capital expenditures are any expenditure of major value that recurs irregularly, results in the acquisition (or significant modification) of a fixed asset, and has a useful life greater than one (1) year.

**GAAP:** Generally Accepted Accounting Principles

This is a standard related to how financial statements are prepared and included conventions and rules that accountants use in the preparation and interpretation of these statements.

**FDIC:** Federal Deposit Insurance Corporation

The Federal Deposit Insurance Corporation (FDIC) is an independent agency created by the Congress to maintain stability and public confidence in the nation's financial system by: insuring deposits, examining and supervising financial institutions for safety and soundness and consumer protection, and managing receiverships.

**Fund Balance:** Fund Balance is, simply explained, the amount of assets in excess of liabilities in a given fund.

Adopted: July 16, 2009

Updated: July 1, 2013

Updated: May 19, 2016

Amended: July 13, 2017 (Section X)

Amended: May 17, 2018 {Various changes to comply with electronic pre-audit changes in purchasing policy: Section V(2), X(2)(e) and IV(1) and to change language from unrestricted to unassigned, reference fund balance}

Amended: May 20, 2021 Section VII 2 (a), Section V 2 and 3 and changes to add ACFR.



# TOWN OF RIVER BEND, NORTH CAROLINA

## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2020

### NOTE 1 - Summary of Significant Accounting Policies (continued)

#### Fund Balances (continued)

The Town has a revenue spending policy that provides guidance for programs with multiple revenue sources. The Finance Department, as directed by the Finance Officer, will use resources in the following hierarchy as appropriate: bond proceeds, federal funds, State funds, local non-Town funds, and Town funds. For purposes of fund balance classification, expenditures are to be spent from restricted fund balance first, followed in order by committed fund balance, assigned fund balance, and lastly, unassigned fund balance. The Finance Officer has the authority to deviate from this policy if it is in the best interest of the Town.

The Town has adopted a formal fund balance policy. The Town's target goal for the General Fund unassigned fund balance shall be no less than 50% of the actual expenditures of the then completed fiscal year. These funds will be utilized to avoid cash flow interruptions, generate interest income, eliminate the need for short-term borrowing, and maintain the Town's credit ratings. The fund balance may be purposefully drawn down below the target percentage for emergencies, economic influences, non-recurring expenditures, or major capital projects.

If the fund balance falls below the target percentage for two consecutive years, the Town will replenish funds by direct appropriation in the next budget developed for the fiscal year after the occurrence is known. In that instance, the Town will annually appropriate 25% of the difference between the target percentage level and the actual balance until the target level is met. In the event appropriating 25% is not feasible, the Town will appropriate a lesser amount and shall reaffirm by Council resolution its commitment to fully replenish the fund balance over a longer period of time.

The following schedule provides management and citizens with information on the portion of General Fund balance that is available for appropriation.

Total fund balance - General Fund	\$ 1,784,997
Less:	
Stabilization by State statute	148,249
Streets	-
Prepaid	199
General Government Capital Reserve Fund	135,087
LEO Separation Allowance	11,799
FY 2020-21 Fund Balance Appropriated	224,262
Remaining available fund balance	<u>\$ 1,265,401</u>

The remaining available fund balance is 47.55% of the actual expenditures for the fiscal year (\$2,661,148), which is slightly below the adopted Fund Balance policy. Included in these expenditures is the NCORR loan balance (\$949,846) paid back this year with FEMA public assistance funds. The Council purposefully transferred \$1,315,900 of fund balance to the BUS Capital Project Fund for construction of a municipal building. Fund balance will be addressed as usual in future budget development sessions.



## RIVER BEND TOWN COUNCIL AGENDA

Regular Meeting

May 20, 2021

River Bend Town Hall

7:00 p.m.

Pledge: Mayor Kirkland

1. CALL TO ORDER (Mayor Kirkland Presiding)
2. RECOGNITION OF NEW RESIDENTS
3. ADDITIONS/DELETIONS TO AGENDA
4. ADDRESSES TO THE COUNCIL
5. PUBLIC HEARINGS
6. CONSENT AGENDA

*All items listed under this section are considered routine by the Council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

- A. Approve:  
*Minutes of the April 8,, 2021 Work Session*  
*Minutes of the April 15, 2021 Regular Council Meeting*

7. TOWN MANAGER'S REPORT – Delane Jackson

### **Activity Reports**

- A. **Monthly Police Report** by Chief Joll
- B. **Monthly Water Resources Report** by Director of Public Works Mills
- C. **Monthly Work Order Report** by Director of Public Works Mills
- D. **Monthly Zoning Report** by Assistant Zoning Administrator McCollum

### ADMINISTRATIVE REPORTS:

8. Public Works and Water Resources – Mayor John Kirkland
  - A. PWAB Report
9. Finance – Councilman Irving Van Slyke, Jr.
  - A. Financial Report - Finance Administrator
10. Environment and Waterways – Councilman Brian Leonard
  - A. EWAB Report



11. Planning Board – Councilman Buddy Sheffield
  - A. Planning Board Report
12. Public Safety – Councilman Don Fogle
  - A. Community Watch
  - B. CERT
13. Parks & Recreation/CAC – Councilwoman Barbara Maurer
  - A. Parks and Rec Report
  - B. CAC Report
  - C. Organic Garden Report
  - D. Library Report
14. MAYOR'S REPORT – Mayor Kirkland
15. PUBLIC COMMENT

*The public comment period is set aside for members of the public to offer comments to the Council. It is the time for the Council to listen to the public. It is not a Question & Answer session between the public and the Council or Staff. All comments will be directed to the Council. Each speaker may speak for up to 3 minutes. A member of staff will serve as timekeeper. A sign-up sheet is posted by the meeting room door and will be collected prior to the start of the Public Comment Period. Speakers will be called on by the Mayor in the order that they signed up. In order to provide for the maintenance of order and decorum, the Council has adopted a policy for this section of the meeting. A copy of the policy is posted by the door for your review. Please follow the policy. If you have a specific question for staff, you are encouraged to contact the Town Manager or the appropriate Department Head at another time.*

16. ADJOURNMENT

**DUE TO COVID-19, SEATING IS LIMITED AND ON A FIRST-COME BASIS. WE ENCOURAGE EVERYONE TO PRACTICE THE 3-W'S.**